

## **Title 9**

### **PEACE, SAFETY AND MORALS**

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## **Chapter 9.04**

### **OFFENSES**

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#### **Section 9.04.010 Prohibition against certain forms of aggressive solicitation.**

A. Definitions. For purposes of this section:

1. "Solicit, ask or beg" shall include using the spoken, written, or printed word, or bodily gestures, signs or other means with the purpose of obtaining an immediate donation of money or other thing of value or soliciting the sale of goods or services.

2. "Public place" shall mean a place to which the public or a substantial group of persons has access, and includes, but is not limited to, any street, the right-of-way of any freeway, including any on ramp, off ramp, or roadway shoulder which lies within the right-of-way of the freeway, highway, sidewalk, median, parking lot, plaza, transportation facility, school, place of amusement, park, playground, and any doorway, entrance, hallway, lobby and other portion of any business establishment, an apartment house or hotel not constituting a room or apartment designed for actual residence.

3. "Aggressive manner" shall mean any of the following:

(a) Approaching or speaking to a person, or following a person before, during or after soliciting, asking or begging, if that conduct is intended or is likely to cause a reasonable person to:

(1) fear bodily harm to oneself or to another, or

(2) damage to or loss of property, or

(3) otherwise be intimidated into giving money or other thing of value;

(b) Intentionally touching or causing physical contact with another person or an occupied vehicle without that person's consent in the course of soliciting, asking or begging;

(c) Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;

(d) Using violent or threatening gestures toward a person solicited either before, during or after soliciting, asking or begging;

(e) Persisting in closely following or approaching a person, after the person solicited has been solicited and informed the solicitor by words or conduct that such person does not want to be solicited or does not want to give money or any other thing or value to the solicitor; or

(f) Using profane, offensive or abusive language which is inherently likely to provoke an immediate violent reaction, either before, during, or after solicitation.

B. Aggressive Solicitation prohibited.

No person shall solicit, ask or beg in an aggressive manner in any public place.

C. All solicitation prohibited at specified locations.

1. Banks and ATMs.

No person shall solicit, ask or beg within 15 feet of any entrance or exit of any bank, savings and loan association, credit union, or check cashing business during its business hours or within 15 feet of any automated teller machine during the time it is available for customers' use. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility. Provided further that no person shall solicit, ask or beg within an automated teller machine facility where a reasonable person would or should know that he or she does not have the permission to do so from the owner or other person lawfully in possession of such facility. Nothing in this paragraph shall be construed to prohibit the lawful vending of goods and services within such areas.

(a) Definitions. For purposes of this section:

(1) "Bank" means any member bank of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operated under the laws of the United States, and any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

(2) "Savings and loan association" means any federal savings and loan association and any "insured institution" as defined in Section 401 of the National Housing Act, as amended, and any federal credit union as defined in Section 2 of the Federal Credit Union Act.

(3) "Credit union" means any federal credit union and any state-chartered credit union the accounts of which are insured by the Administrator of the National Credit Union Administration.

(4) "Check cashing business" means any person duly licensed as a check seller, bill payer, or prorater pursuant to Division 3 of the California Financial Code, commencing with Section 12000.

(5) "Automated teller machine" shall mean any electronic information processing device which accepts or dispenses cash in connection with a credit, deposit, or convenience account.

(6) "Automated teller machine facility" shall mean the area comprised of one or more automated teller machines, and any adjacent space which is made available to banking customers after regular banking hours.

(a) Exemptions. The provisions of Subsection C.1. shall not apply to any unenclosed automated teller machine located within any building, structure or space whose primary purpose or function is unrelated to banking activities, including but not limited to supermarkets, airports and school buildings, provided that such automated teller machine shall be available for use only during the regular hours of operation of the building, structure or space in which such machine is located.

2. Motor vehicles.

No person shall approach an operator or occupant of a motor vehicle for the purpose of soliciting, asking or begging while such vehicle is located in a public place, except as exempted in subsection 4.

3. Parking lots.

No person shall solicit, ask or beg in any public parking lot or structure any time after dark. "After dark" means any time from one-half hour after sunset to one-half hour before sunrise, except as exempted in subsection 4.

4. Exemptions.

Subsections C.2. and C.3. shall not apply to any of the following:

(a) to solicitations related to business which is being conducted on the subject premises by the owner or lawful tenants;

(b) to solicitations related to the lawful towing of a vehicle; or

(c) to solicitations related to emergency repairs requested by the operator or other occupant of a vehicle.

5. Public transportation vehicles.

Any person who solicits, asks or begs in any public transportation vehicle is guilty of a violation of this section.

(a) Definitions. For purposes of this section:

(1) "Public transportation vehicle" shall mean any vehicle, including a trailer bus, designed, used or maintained for carrying 10 or more persons, including the driver; or a passenger vehicle designed for carrying fewer than 10 persons, including the driver, and used to carry passengers for hire.

D. Penalty.

A violation of this section is punishable as a misdemeanor or infraction, chargeable at the City Attorney's discretion.

E. Severability.

The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

F. Non-exclusivity.

Nothing in this chapter shall limit or preclude the enforcement of other applicable laws. (Ord 6706 § 1, 2003; Ord. 6178 § 1, 1994)

**Section 9.04.080      Gambling generally.**

It is unlawful for any person to deal, play or carry on or open or cause to be opened or to conduct either as owner or employee or otherwise, whether for hire or not, any game of chance not mentioned or included in Section 330 of the Penal Code of the State played with cards, dice or any device for money, checks, credits or any other representative of value. (Prior code § 21.21)

**Section 9.04.090      Specific gambling games prohibited.**

It is unlawful for any person to carry on, open or cause to be opened or to conduct, either as owner or employee or otherwise, any game of lotto, hoopo, keeno, tango, skill ball, draw poker or similar game of skill or chance where a consideration of any kind is charged for admittance to or for the privilege of playing the same. (Prior code § 21.22)

**Section 9.04.100      Visiting gambling place.**

It is unlawful for any person to become an inmate of or a visitor at any place where gambling is practiced or carried on. (Prior code § 21.23)

**Section 9.04.110      Hats or headdresses obstructing view of spectators.**

It is unlawful for any person after the beginning of an entertainment, to wear any hat, or to wear any other headdress which shall tend to obstruct or hinder the view of any spectator in any theater, hall or any place where an admission fee is charged. (Prior code § 21.32)

**Section 9.04.120      Loitering.**

It is unlawful for any person to loiter or to stand or sit in or at the entrance of any church, hall, theater, or place of public assemblage so as to in any manner obstruct such entrance. (Prior code § 21.33)

**Section 9.04.140      Sounding bell or whistle on streetcar or locomotive engine.**

It is unlawful for any person operating a locomotive engine or streetcar within the City to blow or sound the whistle or bell of such locomotive engine or streetcar for any other purpose than to warn persons of danger from the approach of such locomotive engine or such streetcar, or for the protection of life and property. (Prior code § 21.38)

**Section 9.04.190      Use of public and private school ground at certain times prohibited.**

No person shall use, occupy or play any games in or upon, or loiter, or trespass in or upon any public or private school grounds in the City, including the buildings located thereon during the vacation of such school or at any other time when such school is not in session; provided, that this section shall not apply to school children occupying or playing upon school grounds before the opening of the morning session of the school or during the recess or noon hour thereof, or to hours after the last school session of each day when permission is given by the Board of Education; nor shall this section apply to other persons who have received permission to occupy such grounds from the Board of Education. (Prior code § 21.48)

**Section 9.04.200      Damaging public property.**

It is unlawful for any person to cut, mark, burn, tear down, deface, remove or destroy any building or any portion of any building, walk, bridge, fence, tree, plant, shrub, ornamental structure or object, post, pipe stone, wire or any other property belonging to or used by the City or located on, above, under or along its streets, sidewalks, parks or public places or buildings, without lawful authority. (Prior code § 21.49)

**Section 9.04.210      Sales to children near school grounds.**

It is unlawful for every hawker, peddler, vendor, or transient or mobile merchant to sell or offer for sale to any minor child or to any minor child attending any of the public schools within the City ice cream, drinks, candy, gum, popcorn, peanuts or any other food items on the street or from other public places within one thousand feet of the exterior boundaries of land on which is located any public or private school or pre-school building within the City between the hours of seven a.m. and four p.m. of any school day. (Ord. 6050 § 1, 1993; prior code § 21.57)

**Section 9.04.220      Loitering for drug activities.**

A. Acts Prohibited. It is unlawful for any person to loiter in, on or near any thoroughfare or place open to the public or near any public or private place including, but not limited to, streets, sidewalks, parks, plazas and squares, in a manner and under circumstances manifesting the purpose of engaging in drug-related activity defined as offenses in Chapters 6 and 6.5 of Division 10 of the California Health and Safety Code.

B. Circumstances. Among circumstances that may be considered in determining whether such purpose is manifested are that the person:

1. Is a known drug user, possessor or seller. For purposes of this chapter, a "known unlawful drug user, possessor or seller" is a person who has, within the knowledge of the arresting officer, been convicted in any court within this State of any violation involving the use, possession or sale of any of the substances referred to in Chapters 6 and 6.5 of Division 10 of the California Health and Safety Code, or such person has been convicted of any violation of any of the provisions of said sections or substantially similar laws of any political subdivision of this State or of any other State; or a person who displays physical characteristics of drug intoxication or usage, such as "needle tracks"; or a person who possesses drug paraphernalia as defined in California Health and Safety Code § 11014.5;

2. Is currently subject to an order prohibiting his or her presence in a high drug activity geographic area;

3. Behaves in such a manner as to raise a reasonable suspicion that he or she is about to engage in or is then engaged in an unlawful drug-related activity, including by way of example only, acting as a "lookout";

4. Is physically identified by the officer as a member of a "gang" or association which has as its purpose illegal drug activity;

5. Transfers small objects or packages for currency in a furtive fashion;

6. Takes flight upon the appearance of a police officer;

7. Tries to conceal himself or herself or any object which reasonably could be involved in an unlawful drug-related activity;

8. Is in an area that is known for unlawful drug use and trafficking;

9. Is on or in premises that have been reported to law enforcement as a place suspected of unlawful drug activity;

10. Is in or within six feet of any vehicles registered to a known unlawful drug user, possessor or seller, or a person for whom there is an outstanding warrant for a crime involving drug-related activity.

C. Penalty. A violation of this section is punishable as a misdemeanor or infraction, chargeable at the City Attorney's discretion.

D. Severability. If any part or provision of this section, or the application thereof to any person or circumstance, is held invalid, the remainder of the section, including the application of that part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this section are severable. (Ord. 6178 § 2, 1994)

#### **Section 9.04.230 Display and sale of drug paraphernalia.**

##### **A. Purpose.**

Regulating business establishments that display or offer for sale drug paraphernalia is a reasonable and necessary means to protect and promote the general welfare of the children and minors of the City of Riverside exposed to illegal drugs. The regulations promote the general welfare and temperance of children and minors and are intended to help reduce the illegal consumption and purchase of illegal drugs by children and minors by limiting their exposure to drug paraphernalia.

##### **B. Definitions.**

The following words and phrases, whenever used in this section, shall be construed as defined in this section.

1 "Drug paraphernalia," including but not limited to one or more of those items identified in that list set forth in Subparagraph 3 below, shall mean any device designed primarily for use by individuals for the smoking or ingestion of marijuana, hashish, hashish oil, cocaine, or any other "controlled substance," as that term is defined in the Health and Safety Code of the State of California.

2 A device "designed primarily for" the smoking or ingestion set forth in Subparagraph B.1 above is a device, which has been fabricated, constructed, altered, adjusted, or marked especially for use in the smoking or ingestion of marijuana, hashish, hashish oil, cocaine, or any other "controlled substance," and is peculiarly adapted to that purpose by virtue of a distinctive feature or combination of features associated with drug paraphernalia, notwithstanding that it might also be possible to use the device for some other purpose.

3. Includable Items or Devices:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes, with or without screens, permanent or otherwise, heads or punctured metal bowls;

(b) A device constructed so as to prevent the escape of smoke and to accumulate smoke into a chamber to permit inhalation or ingestion of larger quantities of smoke than would otherwise be possible, whether the device is known as a "bong," or otherwise;

(c) A smokable pipe constructed with a receptacle or container in which water or other liquid may be placed into which smoke passes and is cooled in the process of being inhaled or ingested;

(d) A smokable pipe which contains a heating unit, whether the device is known as a "electric pipe," or otherwise;

(e) A device constructed so as to permit the simultaneous mixing and ingestion of smoke and nitrous oxide or other compressed gas, whether the device is known as a "buzz bomb," or otherwise;

(f) A canister, container or other device with a tube, nozzle or other similar arrangement attached and so constructed as to permit the forcing of accumulated smoke into the user's lungs under pressure;

(g) A device for holding a cigarette, whether the device is known as a "roach clip," or otherwise;

(h) A spoon for ingestion through the nose;

(i) A straw or tube for ingestion through the nose or mouth.

4 "Public Library" - A place in which literary, musical, artistic, or reference materials, such as books, manuscripts, newspapers, recordings, or films, are kept for use but not for sale, which is under the control, operation or management of the City.

5. "Public Park" - A park, playground, swimming pool, recreation center reservoir, golf course or similar athletic field within the City of Riverside, which is under the control, operation or management of the City and which is devoted to active or passive recreation.

6. "Religious Institution" - A building that is used primarily for religious worship and related religious activities.

7. "Schools" - An institution of learning for minors, whether public or private, which offers instruction in those courses of study required by the California Education Code or which is maintained pursuant to standards set by the State Board of Education. This definition includes kindergarten, elementary, junior high, senior high or any special institution of learning under the jurisdiction of the State Department of Education, but it does not include a vocational or professional institution or an institution of higher education, including a community or junior college, college or university.

C. Business Establishment Responsibility

1 It shall be unlawful for any person in charge or control of any business establishment where drug paraphernalia is displayed for sale, offered for sale or sold, to knowingly allow or permit a minor, not accompanied by one or both of his or her parents or by his or her legal guardian, to enter and remain within any business establishment where drug paraphernalia is displayed for sale, offered for sale or sold.

D. Signage Requirements for Business Establishment

1 It shall be unlawful for any person in charge or control of a business establishment where drug paraphernalia is displayed for sale, offered for sale, or sold, to fail to display and

maintain or fail to cause to be displayed and maintained, at least one sign stating that a minor may not enter unless accompanied by one or both of his or her parents or by his or her legal guardian.

2. For purposes of subsection D.1, the language "MINORS PROHIBITED UNLESS ACCOMPANIED BY A PARENT OR GUARDIAN" on the signs shall be printed in letters at least two inches high in black ink on a white surface. These signs shall be placed in a conspicuous location near each public entrance to the business establishment where drug paraphernalia is displayed for sale, offered for sale, or sold.

3. In the event a substantial number of public invitees or patrons of a business establishment where drug paraphernalia is displayed for sale, offered for sale or sold, uses a language other than English as a primary language, any sign required pursuant to this section shall be worded in both English and the language or languages involved.

**E. Restrictions on Entry by Minors**

1 In the event a sign or signs have been posted as required by Subsection B above, it shall be unlawful for a minor to enter any business establishment where drug paraphernalia is displayed for sale, offered for sale or sold, unless a minor is accompanied by one or both of his or her parents or by his or her legal guardian.

**F. Restrictions on Locations for Business Establishments Where Drug Paraphernalia May Be Displayed or Sold**

**1. Prohibitions.**

(a) No person shall operate a business establishment, where drug paraphernalia is displayed for sale, offered for sale or sold, within 500 feet of any school, religious institution, public library or public park.

(b) The distance specified in Subparagraph (a) above shall be the horizontal distance measured in a straight line from the property line of a school, religious institution, public park, or public library to the closest exterior structural wall of the business establishment without regard to intervening structures. (Ord. 6703 § 1, 2003)

**Section 9.04.240 Throwing stones and missiles.**

It is unlawful for any person to throw stones or other missiles at vehicles of any kind or at persons passing on the street or in any other place, or to frighten or attempt to frighten any horse or other animal carrying persons in vehicles or otherwise, or to wantonly or willfully throw stones or other missiles at any animal, the property of another. (Prior code § 21.60)

**Section 9.04.280 Annoying pedestrians--Impeding free passage.**

A. No person shall stand in or upon any street, sidewalk or other public way open for pedestrian travel or otherwise occupy any portion thereof in such a manner as to annoy or molest any pedestrian thereon or so as to obstruct or unreasonably interfere with the free passage of pedestrians.

B. No person shall sit, lie or sleep in or upon any street, sidewalk or other public way.

The provisions of this section shall not apply to persons sitting on the curb portion of any sidewalk or street while attending or viewing any permitted parade; nor shall the provisions apply to persons sitting upon benches or other seating facilities provided for such purpose by City authority or permitted by this Code. (Ord. 3566 § 1, 1968)

**Section 9.04.290 Bicycles, skateboards, etc.**

A. It is unlawful for any person to ride upon any bicycle, scooter, roller skate or skates, skateboard or other similar contrivance upon any sidewalk within any business district within the City. As used in this section, "business district" means "business district" as defined in Section 235 of the California Vehicle Code.



B. It is unlawful for any person to ride upon any bicycle, scooter, roller skate or skates, skateboard or other similar contrivance upon any private sidewalk, private parking lot or private parking facility within any business district within the City without the direct or implied consent of the owner or person in lawful possession thereof if there is displayed in plain view on the property a sign prohibiting such riding and referring to this code section. (Ord. 5641 § 1, 1988)

#### **Section 9.04.300 Trespass on private property.**

A. No person shall enter or be present upon any private property or portion of private property not open to the general public without the consent of the owner, the owner's agent, or the person in lawful possession, where signs forbidding entry are displayed as provided in Subsection F.

B. No person shall enter upon any private property or portion of private property, not open to the general public, who within the immediately preceding six months was advised as follows: to leave and not return, and that if he or she returns to the property within six months of the advisement he or she will be subject to arrest. This advisement must be made by the owner, the owner's agent, the person in lawful possession or a peace officer at the request of the owner, owner's agent or person in lawful possession. The advisement shall be documented in writing by the individual making it and shall include the name of the person advised, the date, approximate time, address and type of property involved. Such documentation shall be retained for a minimum period of one year. This subsection is not violated if a person so advised enters the property within the designated six-month period, if he or she has been expressly authorized to do so by the owner, the owner's agent or a person in lawful possession.

C. Entry Requiring Express Consent of Owner.

1. No person shall enter or be present upon private property not open to the general public without the express consent of the owner or the owner's agent when that person:

a. Has been convicted or any violation of the law involving narcotics, prostitution, vandalism, threat to commit a violent act, or a violent act, on that same private property not open to the general public, whether or not such property is posted in accordance with subsection F; and

b. Has, subsequent to the conviction been told to leave and not return to that same property by the owner, the owner's agent or a peace officer at the request of the owner or the owner's agent.

2. The request to leave must be made within six months of the date of the conviction and shall be documented in writing by the individual making the request. The documentation of the request shall include the name of the person being requested to leave, the date, the approximate time, the address and the type of property involved.

3. This subsection applies even if the person has the consent of a person in lawful possession but does not apply to persons who have a right of lawful possession to the subject property. An individual who has the consent of the person in lawful possession may not be refused entry by the owner or the owner's agent for a period exceeding twelve months, computed from the date of the request.

D. No person shall enter or be present upon any private property or portion of private property open to the general public who within the immediately preceding twenty-four hours was advised to leave and not return, and that if he or she returns to the property within twenty-four hours of the advisement, he or she will be subject to arrest. This advisement must be made by the owner, the owner's agent, the person in lawful possession or a peace officer at the request of the owner, owner's agent or the person in lawful possession. A request to leave may be made only if it is rationally related to the services performed or the facilities provided.

E. The term "private property" shall mean any real property, including but not limited to, buildings, structures, yards, open spaces, walkways, courtyards, driveways, carports, parking

areas and vacant lots, except land which is used exclusively for agricultural purposes, owned by any person or legal entity other than property owned or lawfully possessed by any governmental entity or agency.

F. For purposes of Subsection A, one sign must be printed or posed in a conspicuous manner at every walkway and driveway entering any enclosed property or portion thereof and at a minimum of every fifty feet along the boundary of any unenclosed lot. This requirement is met if at least one sign is conspicuously printed or posted on the outside of every structure on such property, so as to be readable from each walkway and driveway entering such property. The sign shall State as follows:

THIS PROPERTY CLOSED TO THE PUBLIC  
No Entry Without Permission  
R.M.C. §9.04.300

The language "THIS PROPERTY CLOSED TO THE PUBLIC No Entry Without Permission" on said sign shall be at least two inches high.

G. When a peace officer's assistance in dealing with a trespass is requested, the owner, owner's agent, or the person in lawful possession shall make a separate request to the peace officer on each occasion. However, a single request for a peace officer's assistance may be made to cover a limited period of time not to exceed twelve months when such request is made in writing and provides the specific dates of the authorization period.

H. This section shall not apply in any of the following instances: (1) when its application results in, or is coupled with, any act prohibited by the Unruh Civil Rights Act, or any other provision of law relating to prohibited discrimination against any person; (2) when its application results in, or is coupled with, an act prohibited by Section 365 of the California Penal Code, or any other provision of law relating to the duties of innkeepers; (3) when public officers or employees are acting within the course and scope of their employment or in the performance of their official duties; or (4) when persons are engaging in activities protected by the United States Constitution or the California Constitution or when persons are engaging in acts which are expressly required or permitted by any provision of law.

I. Violation of any of the provisions of this section shall be a misdemeanor or an infraction.

J. If any part or provision of this section, or the application thereof to any person or circumstance, is held invalid, the remainder of the section, including the application of that part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this section are severable. (Ord. 6178 § 3, 1995)

#### **Section 9.04.400      Conduct on public property.**

A. Obstruction of Movement in Public Ways. No person, after having been notified by a law enforcement officer that he or she is in violation of the prohibition in this Section, shall occupy any portion of a public way or public place so as to obstruct or interfere with the flow of pedestrian or vehicular traffic thereon, whether such person does so alone or together with one or more persons, or with equipment or personal property of any nature, and whether such person does so by standing, sitting, lying, or in any other manner.

B. Sitting or Lying Down on Public Sidewalks. No person, after having been notified by a law enforcement officer that he or she is in violation of the prohibition in this section, shall sit or lie down upon a public sidewalk or sidewalk curb, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk.

C. Exceptions. Subsections A and B of this section shall not apply in the following

cases and to the following persons:

1. Persons standing or sitting on the curb or portion of any sidewalk or street while attending or viewing any parade, festival, performance of similar event permitted under the provisions of this code;

2. Persons sitting upon benches or other seating facilities provided or authorized for such purposes by municipal authorities;

3. Any conduct which is in conformity with the terms of any permit granted pursuant to this Code;

4. Any conduct in public places that are privately owned where such conduct is in conformity with permission granted by the owner of said premises or by the person entitled to the possession of said premises;

5. Persons sitting or lying down due to a medical emergency;

6. Persons who, as the result of a disability, utilize a wheelchair or similar device to move about;

7. Persons who place chairs or stools on public sidewalks in conjunction with display devices or noncommercial uses permitted under this code.

D. Conduct on Public Property, Monuments and Lawns. No person, after having been notified by a law enforcement officer that he or she is in violation of the prohibition in this section, shall:

1. Walk, stand, sit or lie upon any monument, vase, decorative fountain, drinking fountain, bike rack, trash receptacle, median, fire hydrant, street tree planter berm, utility cabinet, railing, fence, planter, or upon any other public property not designed or customarily used for such purposes;

2. Walk, stand, sit or lie upon any public lawn or planted area which is posted with signs that forbid such conduct; or

3. Walk, stand or lie upon any public bench.

E. Public Urination and Defecation Prohibited. No person shall urinate or defecate in public except when using a urinal, toilet or commode located in a bathroom or restroom enclosed from public view.

F. Sidewalk Obstructions -- After Dark. No person, without a permit, shall place on the public sidewalks of the City between eleven p.m. and five a.m. any structure or object which may potentially represent a hazard or obstruction to any able-bodied or disabled person traversing any portion of said public sidewalk. This section shall not apply to items left on public sidewalks for refuse or recycling collection.

G. Public Nuisance Declared. If any vehicle, object, structure, construction material or construction equipment is placed or left upon any public street, sidewalk, roadway, pedestrian way or bicycle path, or in any other public place in the City, contrary to the terms of this Chapter and without the written permission of the Street Superintendent, any such vehicle, object, structure, construction material or construction equipment is declared to be a public nuisance and the Street Superintendent is authorized and empowered to remove any such vehicle, object, structure, construction material or construction equipment from the public street, sidewalk, roadway, pedestrian way or bicycle path forthwith. If the person owning, or otherwise responsible for, any such vehicle, object, structure, construction material or construction equipment is present, then before removing the vehicle, object, structure, construction material or construction equipment, the Street Superintendent or the person designated by the Superintendent shall warn that person that he or she is in violation of this chapter and shall give that person the opportunity to remove forthwith the vehicle, object, structure, construction material or construction equipment.

H. Penalty. A violation of this section is punishable as a misdemeanor or infraction, chargeable at the City Attorney's discretion.

I. Severability. If any part or provision of this Section, or the application thereof to any

person or circumstance, is held invalid, the remainder of the Section, including the application of that part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this section are severable. (Ord. 6178 § 4, 1994)

**Section 9.04.500      Sitting or lying in entrance of building prohibited.**

A. The terms used herein are defined as follows:

1. "Entrance" means the entire area between the outer edge of an entrance to a building and the exterior door and includes the entry way, doorway or vestibule.

B. No person shall sit or lie down in any entrance to a building between the hours of 10:00 p.m. and 7:00 a.m. the following day.

C. The prohibition contained in this Section shall not apply to any person sitting or lying down in any entrance to a building due to a medical emergency or to any person engaged in protected First Amendment activity. (Ord 6834 § 2, 2005)

## **Chapter 9.05**

### **POSSESSION OF ALCOHOLIC BEVERAGES ON POSTED PREMISES AND CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES**

#### **Sections:**

<b>9.05.010</b>	<b>Definitions.</b>
<b>9.05.020</b>	<b>Possession of open alcoholic beverage container.</b>
<b>9.05.030</b>	<b>Consumption of alcoholic beverage.</b>
<b>9.05.040</b>	<b>Presumption regarding consumption.</b>
<b>9.05.050</b>	<b>Exemptions.</b>
<b>9.05.060</b>	<b>Penalty.</b>
<b>9.05.070</b>	<b>Severability.</b>

#### **Section 9.05.010 Definitions.**

"Alcoholic beverage" as used in this chapter, means and includes alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

"Posted premises" as used in this chapter, means those premises in the City which are subject to licensure under any retail package off-sale alcoholic beverage license, the parking lot immediately adjacent to the licensed premises and any public sidewalk immediately adjacent to the licensed premises on which clearly visible notices indicate to the patrons of the licensee and parking lot and to persons on the public sidewalk that the provisions of Section 9.05.020(A) of this code are applicable.

"Public place" as used in this chapter, includes any City park; any municipally owned, leased or operated public property, building or facility; and any public street, sidewalk, alley, playground, parkway, or any place open to the patronage of the public which premises are not licensed for the consumption of such alcoholic beverage thereon. (Ord. 6433 § 1, 1998; Ord. 5792 § 1, 1990)

#### **Section 9.05.020 Possession of open alcoholic beverage container.**

A. Pursuant to California Penal Code Section 647e (a), it shall be unlawful for any person who has in his or her possession any bottle, can or other receptacle containing any alcoholic beverage which has been opened, or a seal broken or the contents of which have been partially removed, to enter, be or remain on the posted premises of, including the posted parking lot immediately adjacent to, any retail package off-sale alcoholic beverage licensee licensed pursuant to Division 9 (commencing with Section 23000 of the Business and Professions Code), or on any public sidewalk immediately adjacent to the licensed premises.

B. Within thirty days of adoption of a resolution of the City Council so requiring, all retail package off-sale alcoholic beverage licensees licensed pursuant to Division 9 of the Business and Professions Code to operate in the City, shall post such licensed premises with notices clearly visible to patrons of the licensee and the parking lot immediately adjacent to the licensed premises and to persons on the adjacent public sidewalk that the provisions of Subsection A of this section are applicable. Such notices shall include language that states that possession of any opened alcoholic beverage container is prohibited by law. Licensees shall ensure that such notices remain posted at all times.

C. The provisions of this Section shall not apply to a private residential parking lot which

is immediately adjacent to the posted premises.

D. Pursuant to California Business and Professions Code Section 25620, it shall be unlawful for any person to possess any bottle, can or other receptacle containing any alcoholic beverage which has been opened, or a seal broken or the contents of which have been partially removed, within any City park, or any recreation and park district, or any regional park or open-space district, or other City-owned public place.

1. Nothing in this section shall apply where the possession is within premises located in a park or other public place for which a license has been issued pursuant to California Business and Professions Code, Division 9, Section 23000 et seq.

2. This section does not apply when an individual is in possession of an alcoholic beverage container for the purpose of recycling or other related activity.

3. Any violation of this section shall be an infraction pursuant to Business and Professions Code Section 25620(a). (Ord. 6552 § 1, 2000; Ord. 6433 § 1, 1998; Ord. 5792 § 1, 1990)

#### **Section 9.05.030 Consumption of alcoholic beverage.**

A. It shall be unlawful for any person to drink or consume any alcoholic beverage in any public place within the City of Riverside. (Ord. 6433 § 1, 1998; Ord. 6226 § 1, 1995; Ord. 5792 § 1, 1990)

#### **Section 9.05.040 Presumption regarding consumption.**

For the purposes of this chapter, any person possessing an open container containing any alcoholic beverage and having an odor of alcoholic beverage on the person's breath is presumed to be consuming or attempting to consume an alcoholic beverage at the place where the person is located. (Ord. 6433 § 1, 1998; Ord. 5792 § 1, 1990)

#### **Section 9.05.050 Exemptions.**

The provisions of this chapter shall not apply to the following:

A. Any residential property or portions of residential property to which the public may ordinarily have access.

B. Those activities or events in any municipally owned, leased or operated public property, building, or facility including the Pedestrian Mall as defined by Section 13.20.010 of the code, sponsored, allowed, or permitted by the Mayor or the City Council.

C. Any function with a permit duly issued by the City Council or by the State Department of Alcoholic Beverage Control specifying the times and locations upon which alcoholic beverages may be consumed. The City Council may by resolution establish procedures for an alcoholic beverage use permit including the imposition of a processing fee. (Ord. 6433 § 1, 1998; Ord. 5792 § 1, 1990)

#### **Section 9.05.060 Penalty.**

A violation of any provision of this chapter shall be an infraction; provided, however, for the second or any additional violation, within any one-year period, the City Attorney at his/her discretion may file as a misdemeanor, with the exception of Section 9.05.020 which may only be prosecuted as an infraction pursuant to Business and Professions Code Section 25620(a). (Ord. 6552 § 1, 2000; Ord. 6433 § 1, 1998; Ord. 5792 § 1, 1990)

#### **Section 9.05.070 Severability.**

If any part or provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, including the application, of that part

or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this chapter are severable. (Ord. 6433 § 1, 1998)

## **Chapter 9.06**

### **CURFEWS**

#### **Sections:**

<b>9.06.010</b>	<b>Findings.</b>
<b>9.06.015</b>	<b>Definitions.</b>
<b>9.06.020</b>	<b>Curfew established.</b>
<b>9.06.030</b>	<b>Curfew exceptions.</b>
<b>9.06.040</b>	<b>Permitting violation by adult.</b>
<b>9.06.050</b>	<b>Penalty for minors.</b>
<b>9.06.060</b>	<b>Severability.</b>

#### **Section 9.06.010 Findings.**

The City Council finds and determines that the following legitimate and compelling governmental interests justify establishment of a curfew for minors: (a) protection of children from each other and from other persons on the street during late night and early morning hours; (b) protection of the public from nocturnal gang-related crime; (c) reduction of widespread juvenile criminal activity; (d) encouragement of parental control of and responsibility for their children. It is the intent of the City Council to allow minors under the age of eighteen to move about freely while participating in legitimate activities, and to pursue legitimate activities during the hours specified in Section 9.06.020 with the permission of his or her parent, guardian, or other adult person having the lawful care and custody of the minor. (Ord. 5998 § 1, 1992)

#### **Section 9.06.015 Definitions.**

As used in this chapter, a "minor" means any individual below the age of eighteen years. (Ord. 5998 § 1, 1992)

#### **Section 9.06.020 Curfew established.**

It is unlawful for any minor to be in or upon any public street, road, sidewalk, highway, park, vacant lot, alley, playground, curb, gutter, driveway, walkway, or other public place, whether inside or outside a motor vehicle, between the hours of ten p.m. and five a.m. except as hereinafter set forth in Section 9.06.030. (Ord. 6302 § 1, 1996; Ord. 5998 § 1, 1992)

#### **Section 9.06.030 Curfew exceptions.**

The following shall constitute valid exceptions to the operation of the curfew:

A. The minor is accompanied by his or her parent or other responsible person over the age of twenty-one and approved by the child's parent or legal guardian;

B. The minor is on any emergency errand or lawful business as directed by his or her parent or legal guardian;

C. The minor is going directly between his or her home and place of employment. This exception shall only be valid if the child has in his or her possession a written statement from the employer attesting to the place and hours of employment;

D. The minor is coming directly home from a meeting or a place of public entertainment such as a concert, movie, play, athletic or sporting event, school, dance, political activity or religious activity. This exception will apply for one-half hour after the completion of such event, but in no case beyond two a.m.;



E. The minor is engaged in interstate or intrastate travel, with the consent of his or her parent or legal guardian;

F. The minor is emancipated, and has in his or her possession proof of such status. (Ord. 5998 § 1, 1992)

**Section 9.06.040      Permitting violation by adult.**

Any parent, guardian, or other person having legal care, custody, or control of any minor under the age of eighteen who knowingly allows or permits such minor to be in violation of Section 9.06.020 is guilty of a misdemeanor. (Ord. 5998 § 1, 1992)

**Section 9.06.050      Penalty for minors.**

Any minor violating the provisions of Section 9.06.020 shall be guilty of a misdemeanor and shall be dealt with in accordance with the Juvenile Court laws of the State of California (Chapter 2, Division 2 of the Welfare and Institutions Code commencing with Section 200). (Ord. 5998 § 1, 1992)

**Section 9.06.060      Severability.**

If any section, subsection, sentence, clause or phrase of Sections 9.06.010 through 9.06.050 is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions. The City Council hereby declares that it would have passed those sections, subsections, clauses, phrases, irrespective that one or more may be declared invalid or unconstitutional. (Ord. 5998 § 1, 1992)

## **Chapter 9.07**

### **CHARGE FOR POLICE RESPONSE TO LOUD OR LARGE PARTIES**

#### **Sections:**

<b>9.07.010</b>	<b>Findings.</b>
<b>9.07.020</b>	<b>Purpose.</b>
<b>9.07.030</b>	<b>Definitions.</b>
<b>9.07.040</b>	<b>Police response to loud or large parties.</b>
<b>9.07.050</b>	<b>Billing.</b>
<b>9.07.060</b>	<b>Debt of City.</b>
<b>9.07.070</b>	<b>Appeal.</b>

#### **Section 9.07.010 Findings.**

The City Council finds and determines that loud or large parties on private property can constitute a threat to the peace, health, safety, or general welfare of the public. Police officers have been required to make many return calls to loud or large parties in order to disperse uncooperative or unruly participants in order to restore the public peace and safety. Such return calls drain the manpower and resources of the police department, and can leave other areas of the City without minimal levels of police protection so as to create a significant hazard to the safety of citizens and police officers. (Ord. 6090 § 1, 1993)

#### **Section 9.07.020 Purpose.**

The purpose of this chapter is to allow the City to obtain reimbursement for expenses related to second and additional responses to loud or large parties which have been determined to be a threat to the public peace, health, safety or general welfare. (Ord. 6090 § 1, 1993)

#### **Section 9.07.030 Definitions.**

For the purpose of this chapter, the following words and phrases shall have the meanings given herein:

"Large party" or "loud party" means a gathering or assembly of persons on a premises within the City of Riverside at the invitation, request, or consent of the person in charge or control of the premises.

"Police service fee" means all costs of personnel and equipment for the amount of time actually spent in responding to or in remaining at a loud or large party at a rate established by resolution of the City Council.

"Responsible party" means that person or persons in charge of the premises or location, or the person or persons responsible for the event or incident, and shall include any of the following:

1. The person or persons who own the property where the loud or large party takes place.
2. The person or persons in charge of the premises where the loud or large party takes place.
3. The person or persons authorizing the use of the premises for the loud or large party.
4. The person or persons who organized the large party.

If any of those persons are minors, the parent or guardians of such minor(s) shall be the responsible party.

"Subsequent police response" means any police response to the location of a loud or

large party made within fifteen days after a police officer has given a written warning to the responsible party notifying said person that a police services fee will be imposed for a subsequent response to abate the nuisance. (Ord. 6960 § 1, 2007; Ord. 6090 § 1, 1993)

**Section 9.07.040 Police response to loud or large parties.**

A. If a loud or large party occurs or is held and the police officer initially investigating the matter determines that the same is a threat to the public peace, health, safety or general welfare or constitutes a nuisance, said officer shall, in addition to any other duty or responsibility imposed by law, give a written warning (disturbance violation notice) to the responsible party that if a further response is necessary because of the continuation of any objectionable activity that the responsible party will be held liable to the City for the amount of the police service fee.

B. A police service fee shall be imposed if a subsequent police response to the loud or large party is necessary to control or abate the nuisance or to protect the public peace, health, safety or general welfare.

C. The provisions of this chapter are in addition to the authority of the police to regulate loud or large parties and shall supplement, and not supplant, the exercise of any other available law including, but not limited to, arrest or citation pursuant to the California Penal Code or other law or ordinance. (Ord. 6090 § 1, 1993)

**Section 9.07.050 Billing.**

The Chief of Police or the designee of the Chief of Police shall notify the Finance Department in writing of the name and address of the person responsible for the party, the date and time of the incident, of the services performed and the police services required, and such other information as may be necessary. The Finance Department shall thereafter cause appropriate billing of the police service fee to be made to the responsible party. (Ord. 6090 § 1, 1993)

**Section 9.07.060 Debt of City.**

The amount of any police service fee charged pursuant to this chapter shall be deemed a civil debt owing to the City by the responsible party. (Ord. 6090 § 1, 1993)

**Section 9.07.070 Appeal.**

A. Any person receiving a bill for police services provided pursuant to this chapter, may, within fifteen days after said bill was sent, file a written request appealing the police services fee imposed with the City Manager. The City Manager or the appointed designee of the City Manager shall set the matter for a hearing, which hearing shall be within thirty days after receipt of the notice of appeal or such longer period as may be agreed to by the appellant. The City Manager or the designee of the City Manager shall render a written decision on the appeal within ten days following the close of the hearing. The decision of the City Manager or the designee of the City Manager shall be final.

B. After a request for appeal is filed, the City shall withhold collection of the bill until conclusion of the appeal.

C. If, after a hearing, the appeal is denied in part or in full, all amounts due to the City shall be paid within thirty days. (Ord. 6090 § 1, 1993)

## **Chapter 9.08**

### **USE OF PUBLIC PARKS**

#### **Sections:**

<b>9.08.010</b>	<b>Rules and regulations adopted.</b>
<b>9.08.015</b>	<b>Use of White Park.</b>
<b>9.08.020</b>	<b>Dogs permitted; leash requirements; exceptions; conditions.</b>
<b>9.08.030</b>	<b>Animals prohibited; Exceptions.</b>
<b>9.08.040</b>	<b>Animals protected.</b>
<b>9.08.050</b>	<b>Animals; Removal of feces.</b>
<b>9.08.060</b>	<b>Bicycle and skateboard riding rules.</b>
<b>9.08.065</b>	<b>Designated skateboarding area rules.</b>
<b>9.08.070</b>	<b>Camping; Permit required.</b>
<b>9.08.080</b>	<b>Fires prohibited; Exceptions.</b>
<b>9.08.090</b>	<b>Games; Restrictions.</b>
<b>9.08.100</b>	<b>Liquid waste and refuse.</b>
<b>9.08.110</b>	<b>Park hours.</b>
<b>9.08.120</b>	<b>Reservations and permits.</b>
<b>9.08.130</b>	<b>Restroom use.</b>
<b>9.08.140</b>	<b>Smoking prohibited; Exceptions.</b>
<b>9.08.150</b>	<b>Vehicle maintenance prohibited.</b>
<b>9.08.160</b>	<b>Vehicles prohibited on surfaces other than roads for public use.</b>
<b>9.08.170</b>	<b>Water prohibitions.</b>
<b>9.08.180</b>	<b>Severability of parts of code.</b>

#### **Section 9.08.010 Rules and regulations adopted.**

The rules and regulations set out in this Chapter are established and adopted for the use of public parks in the City of Riverside. All persons using any public park or any facility thereon in any manner shall obey all applicable rules and regulations herein established or adopted. Any persons desiring to vend or sell or offer for sale any merchandise or article or thing whatsoever must have the written consent of the Park and Recreation Commissioners. As used in this Chapter, "Park and Recreation Director" shall mean the Parks, Recreation and Community Services Director. (Ord. 6832 § 2, 2005; Ord. 6526 § 2, 2000; Ord. 4888 § 1, 1981; Ord. 4267 § 1, 1976; prior code § 25.1)

#### **Section 9.08.015 Use of White Park.**

A. The rules and regulations set out in this section are established and adopted for the use of White Park in the City of Riverside. All persons using White Park or any facility thereon in any manner shall obey all applicable rules and regulations herein established or adopted. Except as otherwise provided in this Section, all rules and regulations set out in Chapter 9.08 shall apply to the use of White Park.

B. White Park is designated as a passive use park for activities that are engaged in by individuals or small groups, usually not dependent on a delineated area designed for specific activities. The facilities at White Park will include the following.

1. A walk-through botanical garden.
2. A small community meeting room which will accommodate up to 50 people which can be used for meetings and seminars.

3. Permanently affixed tables with inlaid chess/checkerboards and adjacent benches.
4. Bandstand for outdoor performances and special events.

C. White Park is not designed for active use such as soccer, football, baseball, softball, basketball, tennis, volleyball, wheelchair football, bicycling, skateboarding, or skating. There are no fields, courts, or large open space areas within White Park.

D. In consideration of the designated passive use of White Park, the following are prohibited from the park;

1. Dogs, except as provided in section 9.08.020.B.
2. Bicycles, skateboards, scooters, roller skates, roller blades, in-line skates, shopping carts, or any other self propelled device, unless specifically used in connection with a physical disability under federal or state law.

E. White Park Hours.

White Park shall be open for specific hours and times for normal use of the park which shall be determined by the Parks and Recreation Director and shall be posted on all entrances to the park.

White Park may also be open for special events sponsored by the Parks and Recreation Department or as reserved by permit for special private events as provided in section 9.08.120.

F. Any person who fails to obey the rules and regulations for use of White Park shall be in violation of the provisions of this section. Each incident shall be a new and separate offense. (Ord. 6592 § 1, 2001)

#### **Section 9.08.020 Dogs permitted; leash requirements; exceptions; conditions.**

A. Dogs permitted on-leash. Except as herein provided, no person owning or having charge, care, custody or control of any dog shall permit or allow the same to be in a public park unless such dog is restrained by a leash not more than six feet in length and under the control of a competent person able to restrain such dog.

B. Exceptions. The requirement for a dog to be on-leash while in public park shall not apply to the following:

1. Any dog used by a law enforcement agency.
2. A dog while participating in a dog obedience training program or a dog obedience or conformation show authorized by the Park and Recreation Director, although such dog shall be on leash or otherwise restrained while not actively participating in such show or program.
3. A dog within a posted leash optional area of the park as designated by the City Council, provided, however, nothing herein shall relieve the owner or person having charge, care, custody or control of such dog from the responsibility to maintain proper control over such dog nor shall this subsection be construed as relieving such person from liability for any damages arising out of his or her use of a leash optional area.

C. Rules and regulations for dogs in public parks.

1. It shall be unlawful for any person owning or having charge, care, custody of any dog in a public park not to immediately pick up and properly dispose of the feces of such dog. Proper disposal shall include the placement of such feces in a bag or other container and its removal from the park and disposal in an appropriate depository; provided, however, in designated leash optional areas, such bag or other container may be deposited in a container, if any, designated for such purpose.

2. No dog is permitted in any designated leash optional area in the custody of a child twelve years of age or younger unless such child is accompanied and supervised by a person at least eighteen years of age.

3. No person may have more than two dogs in a designated leash optional area at any one time.

4. Any dog in a designated leash optional area must be under the voice control of the

person having custody of such dog while the dog is in said area.

5. No dogs are permitted in a designated leash optional area except during posted hours of operation.

6. No person shall place a dog in a designated leash optional area which is not over the age of four months, vaccinated for rabies and wearing a current dog tag, or whose owner has within his or her possession said dog tag.

7. No person shall place a dog that is sick or in heat in a designated leash optional area.

8. No person shall place an aggressive dog, of any breed, in a designated leash optional area even if such dog is on a leash.

9. Any person having care or custody of a dog in a leash optional area shall quiet the dog if the dog barks.

10. No person shall bring any animal other than a dog to a leash optional area unless otherwise specifically authorized by the Park and Recreation Director in writing.

11. The use of a leash optional area by the owner or other person having charge, care, custody or control of a dog shall constitute agreement by that person to follow the rules provided in this Subsection C, and his or her agreement to protect, indemnify, defend and hold harmless the City and its officers and employees from any claim, injury or damage arising from or in connection with such use. (Ord. 6526 § 2, 2000; Ord. 6396 § 1, 1997; Ord. 6198 § 1, 1995; Ord. 4780 § 2, 1980; Prior code § 25.2)

#### **Section 9.08.030      Animals prohibited; Exceptions.**

No person shall cause, permit, or allow any animal, bird, or reptile owned possessed by, or in the custody or control of him or her, to be present in any park except:

A. Equine animals being led or ridden under control upon a bridle path or trail authorized and provided for such purpose;

B. Equine or other animals which are hitched or fastened at a place expressly authorized and designated for such purpose;

C. Dogs or cats when caged, or when led by a leash or chain not more than six feet long, or when confined within the interior of a vehicle and under the control of a competent person able to restrain said animal;

D. Dogs which have been specially trained for law enforcement purposes or which are being used by blind or disabled persons to aid and guide them in their movements;

E. Small animals, birds, reptiles, or otherwise are kept on the person of the possessor at all times;

F. In connection with activities authorized by the Park and Recreation Director and when in accordance with all conditions attached to such authorization as set forth in Section 9.08.110. (Ord. 6526 § 2, 2000; Prior code § 25.2)

#### **Section 9.08.040      Animals protected.**

No person shall hunt, frighten, disturb, chase, set a snare for, catch, injure, or maltreat any domestic or other animal within a park, nor shall any person fish with hook and line, seine, trap, spear or net, or by any other means, in any pond, lake, stream, or water within a park, except at a place especially authorized and provided for such purpose. This prohibition shall not apply to law enforcement personnel, nor to animal control officers, nor to City employees or contractors acting within the scope of their official duties or contract obligations. (Ord. 6526 § 2, 2000; Prior code § 25.4)

#### **Section 9.08.050      Animals; Removal of feces.**

Any person causing, permitting, or allowing any animal, bird, or reptile owned or possessed by him, or any animal, bird, or reptile in the custody or control of such person, to be

present in any park pursuant to the provisions of Section 9.08.030 shall immediately pick up and properly dispose of the feces in a bag or other container, and its removal from the park and disposal in an appropriate depository. (Ord. 6526 § 2, 2000; Prior code § 25.5)

**Section 9.08.060      Bicycle and skateboard riding rules.**

No person shall operate any skateboard, bicycle, or any propelled device or other similar article or device in or upon any park, playground, trail, open space area or other area of the City under the control of the Park and Recreation Department in willful or wanton disregard for the safety of persons or property. While elsewhere within a park, such devices shall be carried, pushed, or dismounted when moving from place to place. No person shall operate such device upon the tennis courts within any public park in the City except at or on a place especially authorized and provided for such purpose. If such purpose is authorized, users are required to wear the authorized safety gear such as helmet, wrist guards, elbow pads or said equipment for the authorized use of such activity. (Ord. 6526 § 2, 2000; Prior code § 25.6)

**Section 9.08.065      Designated skateboarding area rules.**

A. The following regulations shall apply to any facility, park or other area designated by the City by resolution as a skateboarding area:

1. No person shall skate or skateboard at times other than established as the hours of operation. The hours of operation shall be from thirty minutes before sunrise and thirty minutes after sunset, except as otherwise posted by City. No person shall use or remain in such facility in violation of this section without written consent of the City.

2. No person shall use the skateboarding areas for uses other than skateboarding and in-line skating.

3. No person shall use the skateboarding areas unless proper safety equipment including a helmet, elbow pads, and knee pads are worn. All such gear must be functional and protective, properly sized and designed for their intended use at the skateboarding areas.

4. Every person under the age of fourteen must be supervised by an adult.

5. No person shall ride or cause bicycles or scooters to be on the skating surface of the skateboarding areas.

6. No person shall use alcohol or drugs in the skateboarding area.

7. All persons using the skateboarding area must place trash in cans provided by the City or such persons shall be removed from the designated skateboarding areas.

8. No person shall cause graffiti or tagging at or near the skateboarding area.

9. No person shall skate on the curbs, sidewalks, fences, railings and/or driveways of the City owned area surrounding the skateboarding area.

B. Violations and Penalties. Violations of any provisions of Section 9.08.065 is deemed to be an infraction and is punishable as such according to the provisions of this Code and state law. (Ord. 6586 § 1, 2001)

**Section 9.08.070      Camping; Permit required.**

No person shall camp, lodge or remain overnight, unless there is set aside by the Park and Recreation Director certain places for this purpose and a permit has been obtained from the Park and Recreation Director. (Ord. 6526 § 2, 2000; Prior code § 25.7)

**Section 9.08.080      Fires prohibited; Exceptions.**

No person shall make or kindle a fire nor cook any meal within a park except in stoves or other facilities authorized and specifically provided for such purpose. In barbecue grills only charcoal is to be used. No fire shall be lit or maintained when the parks are closed, except by

written permission of the Park and Recreation Director. (Ord. 6526 § 2, 2000; Prior code § 25.8)

**Section 9.08.090 Games; Restrictions.**

No person shall play or engage in model airplane flying, model rockets, driving of golf balls, archery, or any game of a hazardous nature within a park, except at such place as shall be especially set apart and authorized for such purpose. (Ord. 6526 § 2, 2000; Prior code § 25.9)

**Section 9.08.100 Liquid waste and refuse.**

No person shall throw any stone or brush or dispose of dishwater or other waste liquids or dispose any garbage, empty container, or other solid waste material within a park, other than in receptacles or other facilities provided for such disposal. (Ord. 6526 § 2, 2000; Prior code § 25.10)

**Section 9.08.110 Park hours.**

A. Hours of Operation. All parks owned by the City of Riverside or to be hereafter owned by the City of Riverside, shall be closed from thirty minutes after sunset of one day and thirty minutes before sunrise of the next day except for those uses noted in Section 9.08.110(C.) or 9.08.120.

B. Closed Parks. Subject to the exceptions as indicated in Subsection C, it shall be unlawful for any person and/or vehicle to be present in or use any closed park as indicated in Subsection A.

C. Exceptions. The park hours prohibitions listed above shall not apply to persons:

1. Attending events sponsored by the City Park and Recreation Department or the events or activities conducted pursuant to a written permit issued by the Park and Recreation Director;
2. Engaged in City business;
3. Engaged in an authorized City program or activity; or
4. Engaged in an activity at a City park or community center for which a City facility use permit authorizing use during non-daylight hours has been obtained from the Parks and Recreation Department.

D. Emergency Park Closure. Whenever a danger to the public health or safety is created in any public park by such causes as flood, storm, fire, earthquake, explosion, accident or other disaster, or by riot or unlawful assembly, the Park and Recreation Director or designee may close the area where the danger exists for the duration thereof to any and all person not authorized to enter or remain within such closed area. No unauthorized person shall willfully and knowingly enter an area closed pursuant to this section nor shall willfully remain within such area after receiving notice to evacuate or leave the area. (Ord. 6526 § 2, 2000; Prior code § 25.11)

**Section 9.08.120 Reservations and permits.**

A. Reservations for activities in parks and park facilities. The Park and Recreation Director or designee shall be responsible for scheduling and controlling the use of parks and park facilities, or portions thereof, for the benefit and participation by interested public and private persons and groups. Any person 18 years or older desiring to reserve any football field, soccer field, ballfield, tennis court, swimming pool, picnic facility, or other park facility, shall apply for a permit. Such application shall be in writing, giving the name of the facility, the proposed use, the date of its proposed use, and the person to whom the permit is to be granted.



The person or group to whom the permit is to be granted shall abide by the policies and procedures of that facility.

B. Reservation Procedure. Groups of any size desiring to use City parks, park facilities, or portions thereof, may request the Park and Recreation Director or his designee to reserve the same for such use. Persons or groups from within the City shall be given priority over persons or groups from outside the City if a conflict in scheduling arises. Requests for such use shall be submitted in writing to the City on the Facility Request Form approved by the Park and Recreation Director not less than 10 working days in advance and not more than 12 months of the intended use. The Park and Recreation Director may permit a shorter or longer advance request time for good cause shown. The Facility Request Form is available at the Park and Recreation Department Office. Upon the written approval by the Park and Recreation Director or his designee, the applicant must pay such fees as approved by ordinance or resolution of the City, not less than 10 working days in advance of the intended use. If the Park and Recreation Director is not satisfied as to the reasonableness of the proposed activity in relation to the use of the park by other persons, or as the effect such use might have upon the peace of the neighborhood, or if the Park and Recreation Director is unable to agree with the applicant as to the conditions to be imposed, the request for a reservation shall be processed as a Special Event Permit.

C. Conditions. The Park and Recreation Director may impose such reasonable conditions upon the issuance of any formal permit required by the City as he or she deems necessary for the protection of the public health, safety, and welfare, including, without limitation, conditions related to time, place, frequency, duration, maximum number of persons in attendance, parking restrictions, and placement of apparatus and equipment. Each permit issued pursuant to this Section shall provide that the permittee will observe all applicable regulations governing the use of City Parks.

D. Insurance. The Park and Recreation Director may also require the applicant to provide such additional liability insurance, water, sanitary facilities and refuse receptacles as the Park and Recreation Director determines to be necessary for the protection of public health, safety, and welfare in connection with the intended use.

E. Fees and Deposits. Fees and deposits required in respect to reservation permits may include, without limitation, such amounts as may be determined by ordinance or resolution of the City, to be necessary to compensate the City, for the administrative costs associated with the permit, as security for repair of damage to the park or to park facilities, for costs of cleanup, and for extra personnel to regulate conduct and traffic.

F. Clean-up and Repair Expenses. The application form shall provide that the applicant shall reimburse the City for all unusual or extraordinary cleanup and repair expenses and for services provided by the City arising out of the activity authorized by the permit.

G. Denial, Cancellation or Termination of Permit or reservation. The Park and Recreation Director may deny, cancel, or terminate the permit or reservation and to require the immediate vacation of the premises upon finding that any of the following conditions exists:

1. That the applicant has not given written agreement to comply with all the conditions imposed upon the granting of the permit;

2. That the applicant reveals that the City does not have a park or facility which will accommodate the use, or the intensity or degree of the use contemplated by the application;

3. That the proposed use is not one which by law must be permitted, and the Chief of Police or the City has determined that the use, or the intensity or degree of the use contemplated by the application creates security problems which pose a threat or potential threat to the public safety or welfare which cannot be mitigated to an acceptable level by the use of security personnel and facilities reasonably available for such purpose;

4. That the applicant failed to file the application in a timely manner;

5. That the park, park area, or park facility is not available for the requested use at the

time specified by the applicant;

6. That the applicant has failed in a material way to comply with the terms and conditions of any prior permit issued to the applicant for use of a park, park area, or park facility, or has failed to pay to the City any fee or cost due in relation to the issuance or exercise of such a permit;

7. When a hazardous condition threatens or reasonably might threaten participants, spectators, City staff, or any person or property if the requested permit were to be issued;

8. If the permit applied for is for the purpose of holding a class, course of instruction, or activity for any program not expressly sponsored, sanctioned, or scheduled by the City and for which a fee is to be charged to attendees or participants. (Ord. 6526 § 2, 2000; Ord. 3403 § 1, 1966; prior code § 25.12)

#### **Section 9.08.130 Restroom use.**

No person shall use any restroom, washroom, or dressing facility within a park when the same has been designated for persons of the opposite sex, and said person shall not be allowed to go within twenty feet of such restroom, except City employees or contractors may enter upon such premises at proper hours for the purpose of cleaning, repairing, monitoring, and securing. No person shall be in the same stall with another, except children six years of age and younger or any person in need of assistance who are accompanied into such facility by an adult. No person shall cut or deface the walls of any restroom or structure within the public parks or shall cut or write thereon. (Ord. 6526 § 2, 2000)

#### **Section 9.08.140 Smoking prohibited; Exceptions.**

It is unlawful for any person to smoke or to dispose of any lighted match or cigarette, cigar ashes or any flaming or glowing substance in any area of any park or open space managed by the Park and Recreation Department and specifically designated by sign as a prohibited smoking areas by the Park and Recreation Department. The Park and Recreation Director is hereby authorized to designate the permissive and prohibited smoking areas by appropriate signs. (Ord 6526 § 2, 2000; Ord. 4628 § 1, 1978)

#### **Section 9.08.150 Vehicle maintenance prohibited.**

It is prohibited for any person, firm, or corporation to repair, lubricate, paint, prepare for painting, add to, alter or overhaul any vehicle within any park. The term add to, as used in this section, shall include within its meaning, the installation of any accessory to a vehicle. (Ord. 6526 § 2, 2000; Ord. 5228 § 1, 1984)

#### **Section 9.08.160 Vehicles prohibited on surfaces other than roads for public use.**

No person shall stop, park, ride or drive any vehicle, horse, motor vehicle, or motorcycle upon any path, trail, bridle path, or in any other area, unless it is posted or marked for parking or designated for use of travel, within a park, playground or recreation area owned or controlled by the City.

No person shall drive or otherwise operate a vehicle, as defined in California Vehicle Code Section 670, in a park or upon any surface other than those maintained and opened to the public for purpose of vehicular travel, except that vehicles may use such temporary parking areas as may be designated by appropriate signs from time to time authorized by the Park and Recreation Director. This provision does not apply to the following:

1. Any vehicle being used for authorized City business;
2. Any police or other emergency vehicle performing an authorized mission;
3. Any vehicle which is within a park pursuant to written permission of the Park and

Recreation Director. (Ord 6526 § 2,2000; Ord. 5929 § 1, 1991)

**Section 9.08.170      Water prohibitions.**

No person shall swim, fish in, bathe, wade, row, sail, or operate any boat, craft, or other device, on or in any pond, lake, stream, or water within or into a park, except at such place or places authorized and provided by the City for such use; nor shall any person pollute the water of any fountain, pond, lake, stream, or reservoir within a park or which would carry pollution to the water of a fountain, pond, lake, stream, or reservoir within a park; nor shall any person throw any stone, earth, or other article into any stream, pond, or lake in any park in the City, and no person shall dislodge or remove any earth or stone from any impounding dam in any such park. (Ord 6526 § 2, 2000)

**Section 9.08.180      Severability of parts of code.**

It is declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentences, paragraph or section of this code shall be declared unconstitutional by the valid judgment of decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code. (Ord 6526 § 2, 2000)

## Chapter 9.09

### PUBLIC PAY TELEPHONE REGULATIONS\*

#### Sections:

9.09.010	Prohibitions.
9.09.020	Nuisance declaration.
9.09.030	Abatement generally.
9.09.040	Appeal.
9.09.050	Time limit for compliance.
9.09.060	Abatement by the City.
9.09.070	Notice of hearing on report of costs.
9.09.080	Action upon report at hearing.
9.09.090	Imposition of lien.
9.09.100	Collection of costs prior to hearing.
9.09.110	Replacement.
9.09.120	Alternative prosecution.
9.09.130	Severability.

#### Section 9.09.010 Prohibitions.

It is unlawful for any person to install, locate or maintain a public pay telephone on unimproved or improved public or private property, contrary to the provisions in this chapter and Titles 13, 16 and 19 of this Code. (Ord. 6278 § 1 (part), 1996)

#### Section 9.09.020 Nuisance declaration.

Any public pay telephone which is installed, located, maintained or operated in violation of Section 9.09.010 is declared to be a public nuisance if it is used as an instrumentality for, or contributes substantially by its presence to, any of the following activities:

A. Selling or giving away controlled substances, as defined in Division 10 of the California Health and Safety Code; soliciting, agreeing to engage in, or engaging in any act of prostitution or other criminal activity;

B. Consumption of alcoholic beverages on outdoor public or private property in violation of Chapter 9.05 of this code, and except where outdoor consumption of alcoholic beverages is specifically authorized pursuant to a license issued by the Department of Alcoholic Beverage Control;

C. Loitering on public or private property under such circumstances that a reasonable person would conclude that the person who remains on the property does not have a purpose connected with the usual and ordinary use to which such property is put, does not have a bona fide intent to exercise a constitutional right, and is causing public inconvenience or annoyance;

D. Making excessive noise. (Ord. 6278 § 1 (part), 1996)

#### Section 9.09.030 Abatement generally.

A. Notification of Nuisance. Whenever the Chief of Police or the Chief's designee determines that any public pay telephone constitutes a public nuisance within the meaning of Section 9.09.020, the Chief of Police or such designee shall give written notice (notice to abate) to the record owner of the property upon which the pay telephone is located, or if available, the owner or other interested party of the pay telephone, stating (1) the general facts upon which the nuisance determination was made; (2) a reasonable time limit to abate the nuisance; and

(3) the right to appeal. The notice shall direct the abatement of the nuisance and refer to this chapter for particulars. The notice served shall contain a description of the property by address or other identifiable characteristics on which the pay telephone is located.

B. Manner of Giving Notice. The notice required by this chapter may be served in any one of the following manners:

1. By personal service on the pay telephone owner, if known, or the property owner upon whose property such pay telephone is located, as shown on the last available County of Riverside tax assessment roll; or

2. By certified mail addressed to the pay telephone owner, if known, or the property owner upon whose property such pay telephone is located, as shown on the last available County tax assessment roll. (Ord. 6278 § 1 (part), 1996)

#### **Section 9.09.040 Appeal.**

Within ten days from the date of giving notice, the property or pay telephone owner may file an appeal of the nuisance finding to the City Manager. Such appeal shall be in writing and shall identify the property upon which the pay telephone is located. Such notice shall be served upon the City Clerk within the time set forth above.

The City Manager shall then appoint a hearing officer to hear the appeal, which hearing officer shall not be an employee of the Police Department. The appeal must be heard within sixty days from the filing of the notice of appeal or at such later date agreed upon by the appellant. Notice of the date of the hearing shall be no sooner than five days from the date when notice of the hearing is given to the pay telephone or property owner and to the Police Chief or the Chief's designee. The decision of the hearing officer is final. (Ord. 6278 § 1 (part), 1996)

#### **Section 9.09.050 Time limit for compliance.**

The property or pay telephone owner must abate the nuisance within the period of time set forth in the notice to abate, or, in the case of an appeal, within ten days from the finding of the hearing officer or such longer period as may be determined by the hearing officer. Unless an emergency situation exists, the property or pay telephone owner shall be given at least ten days to abate the nuisance. (Ord. 6278 § 1 (part), 1996)

#### **Section 9.09.060 Abatement by the City.**

If the nuisance is not abated by the violator within the time limits set forth above, the City, by its employees or any hired contractor, may cause the nuisance to be abated. The Police Chief or the Chief's designee shall thereafter cause a report of the action and an accurate account of cost to be filed with the City Clerk. (Ord. 6278 § 1 (part), 1996)

#### **Section 9.09.070 Notice of hearing on report of costs.**

Upon the filing of the report of costs by the Chief of Police or the Chief's designee, the City Clerk shall thereupon set the report and account for hearing by the City Council at the first regular or adjourned regular meeting which will be held at least seven calendar days after the date of filing, and shall post a copy of such report and account and notice of the time and place of hearing in a conspicuous place at or near the entrance of the Council chambers. Notice of the time, date and place of the hearing will be given by mail to the property owner and telephone owner, if known. (Ord. 6278 § 1 (part), 1996)

#### **Section 9.09.080 Action upon report at hearing.**

A. The City Council shall consider the report and account submitted by the Chief of

Police or the Chief's designee at the time set for hearing, together with any objections or protests by any interested parties. Any owner of land or person interested therein may present a written or oral protest or objection to the report and account. At the conclusion of the hearing, the City Council shall either approve the report and account as submitted or as modified or corrected by the City Council.

B. The amounts so approved shall be liens upon the respective lots or premises, and the City Council shall adopt a resolution assessing such amounts as liens upon the respective parcels of land as they are shown upon the last available assessment roll. The resolution shall also describe the condition of the property which constituted the nuisance. (Ord. 6278 § 1 (part), 1996)

#### **Section 9.09.090      Imposition of lien.**

The City Clerk shall prepare and file with the County Auditor a certified copy of the resolution of the City Council assessing the costs of abatement as a lien on the land, adopted pursuant to the preceding section. The County Auditor shall enter each assessment on the County tax roll upon the parcel of land. The amount of the assessment shall be collected at the time and in the manner of ordinary municipal taxes; and if delinquent, the amount is subject to the same penalties and procedure of foreclosure and sale as is provided for ordinary municipal taxes. (Ord. 6278 § 1 (part), 1996)

#### **Section 9.09.100      Collection of costs prior to hearing.**

The Finance Department of the City may accept payment of any amount due at any time prior to the City Council hearing on the report and account. (Ord. 6278 § 1 (part), 1996)

#### **Section 9.09.110      Replacement.**

A. If any public pay telephone constitutes a public nuisance because it is used for one or more of the activities set forth in Section 9.09.020, procedures provided for administrative abatement shall be followed, as set forth above.

B. The abatement notice issued under Section 9.09.030 shall specify that abatement will require removal of the public pay telephone, and will prohibit its replacement on the same parcel or any contiguous parcel owned by the same property owner for a period of up to one year from the date of removal.

C. Any decision of the hearing officer ordering abatement shall specify that it is unlawful for any public pay telephone to be installed on the same parcel or on any contiguous parcel owned by the same property owner for a period of up to one year from the date of removal. (Ord. 6278 § 1 (part), 1996)

#### **Section 9.09.120      Alternative prosecution.**

In addition to the administrative procedure set forth above, the City may commence a criminal prosecution against any violator of this chapter either as a misdemeanor or infraction as allowable under Section 1.01.110 of the code. (Ord. 6278 § 1 (part), 1996)

#### **Section 9.09.130      Severability.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the chapter. The City Council declares that it would have passed this chapter and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases

may be declared invalid or unconstitutional. (Ord. 6278 § 1 (part), 1996)

## **Chapter 9.10**

### **DAYTIME LOITERING BY MINORS**

#### **Sections:**

- 9.10.010 Daytime loitering by minors.**
- 9.10.020 Infractions and penalties.**
- 9.10.030 Minor curfew, loitering or willful misconduct--Cost recovery.**
- 9.10.040 Severability.**

#### **Section 9.10.010 Daytime loitering by minors.**

It is unlawful for any minor under the age of eighteen years, who is subject to compulsory education or to compulsory continuation education to loiter, idle, wander, or be in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, vacant buildings, or any unsupervised place during the operating school hours of the juvenile offender's school on days when the juvenile offender's school is in session. This section does not apply:

- A. When the minor is accompanied by his or her parent, guardian or other adult person having the care or custody of this minor; or
- B. When the minor is on an emergency errand directed by his or her parent or guardian or other adult person having care or custody of the minor; or
- C. When the minor is going or coming directly from or to their place of gainful employment or to or from a medical appointment; or
- D. To students who have permission to leave school campus for lunch or school-related activity and have in their possession a valid, school-issued, off-campus permit;
- E. When the minor is emancipated;
- F. When the minor has completed his or her high school requirement;
- G. When the minor is enrolled in a specialized program with individualized attendance requirements.
- H. When the minor is authorized to be absent from his or her school pursuant to the provisions of California Education Code Section 48205, or any other applicable State or federal law. (Ord. 6475 § 1, 1999; Ord. 6272 § 1 (part), 1996)

#### **Section 9.10.020 Infractions and penalties.**

When a person under the age of eighteen is charged with a violation of this code, and a peace officer issues a notice to appear in the consolidated Superior and Municipal Court of Riverside County to that minor, the charge shall be deemed an infraction. The penalty imposed shall be set by the Court. (Ord. 6272 § 1 (part), 1996)

#### **Section 9.10.030 Minor curfew, loitering or willful misconduct--Cost recovery.**

A. Determination by Court. When, based on a finding of civil liability or criminal conviction for violations of daytime loitering (truancy), a minor is detained and said detention required the supervision of the minor by any Riverside Police Department employee(s), the parent(s) or legal guardian(s) having custody or control of said minor shall be jointly and severally liable for the cost of providing such personnel.

B. Determination by Chief of Police. The Chief of Police or his designee may determine that the parent(s) or legal guardian(s) of the minor violating this chapter be billed for the cost of providing police services arising out of the arrest, detention and investigation of the violation of



this chapter.

C. Appeal. Any person receiving a bill for police services pursuant to this chapter may, within fifteen days after the billing date, file a written request appealing the imposition of the charges. Any billing sent pursuant to this section shall inform the billed party of the right to appeal the billing. Any appeal regarding the billing shall be heard by the City Manager, or his or her designee, as the hearing officer. Within ten days after the hearing, the hearing officer shall give written notice of the decision to the appellant. Upon the filing of a request for an appeal, payment of the bill for the police services shall be suspended until notice of the decision of the hearing officer. If the appeal is denied in part or in full, all amounts due to the City shall be paid within thirty days after notice of the decision of the hearing officer. Once a decision is issued by the hearing officer, any party may then appeal that decision to the consolidated Superior and Municipal Court of Riverside County. (Ord. 6272 § 1 (part), 1996)

**Section 9.10.040 Severability.**

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. (Ord. 6272 § 1 (part), 1996)

## **Chapter 9.12**

### **WEAPONS**

#### **Sections:**

- 9.12.010**      **Definition of firearm.**
- 9.12.020**      **Unlawful to discharge firearm within the city.**
- 9.12.030**      **Exceptions.**
- 9.12.040**      **Unlawful to kill wild fowl or squirrels.**
- 9.12.050**      **Authorized destruction of birds destroying crops or property.**
- 9.12.060**      **Nuisances - disposition of weapons.**
- 9.12.065**      **Demonstration equipment prohibitions.**
- 9.12.070**      **Severability.**

#### **Section 9.12.010      Definition of firearm.**

In this chapter, "firearm" means a gun, pistol, rifle, air rifle or air gun, b-b gun, arrow, crossbow, or any other instrument of any kind, character or description which throws or projects a bullet or missile or substance by means of elastic force, air, or explosive substance likely to cause bodily harm. (Ord. 6423 § 1, 1998; prior code § 35.1)

#### **Section 9.12.020      Unlawful to discharge firearm within the city.**

No person may fire or discharge a firearm within the city, nor may a parent, guardian or person having the care, custody or control of a minor permit the minor to fire or discharge a firearm within the city, except as provided hereafter. (Ord. 6423 § 1, 1998; prior code § 35.2)

#### **Section 9.12.030      Exceptions.**

Section 9.12.020 does not apply to the use of a firearm by:

- A. A peace officer or person in the military service in the discharge of their duties;
- B. Persons using firearms in the defense of their persons, the life of another person, their livestock, their domestic animals or their property, to the extent authorized by law; or as otherwise authorized by a permit or license, other than a hunting license, issued pursuant to a state or federal law; or
- C. A person shooting at a mark or target at a regularly established target range, which shall be subject to regulation by ordinance of the City Council. (Ord. 6423 § 1, 1998; prior code § 35.3)

#### **Section 9.12.040      Unlawful to kill wild fowl or squirrels.**

It is unlawful within the city to shoot, trap, snare, wound, poison or kill any wild bird or wild fowl of any kind, or to take or destroy the nests or eggs or young of the same, or of any gray squirrel or other similar squirrel, other than ground squirrels. This section shall not apply to shooting a wild fowl at bonafide gun, rifle, pistol or shotgun clubs maintained as a private game reservation for the use and enjoyment of members only, which clubs shall be subject to regulation by ordinance of the City Council. (Ord. 6423 § 1, 1998; prior code § 35.4)

#### **Section 9.12.050      Authorized destruction of birds destroying crops or property.**

If any kind of birds are alleged by anyone to be doing damage to crops or property, the City Council may by resolution allow temporarily the destruction by defined means of such birds

as in its judgment are destroying crops or property in an amount sufficient to justify temporary relief. (Ord. 6423 § 1, 1998; prior code § 35.5)

**Section 9.12.060      Nuisances - disposition of weapons.**

A. Upon conviction of a defendant, a firearm used in the commission of, or in an attempt to commit, any violation of this code, is a nuisance.

B. Upon conviction of a defendant, any weapon described in Subsection A of this Section shall be surrendered to the Chief of Police who shall dispose of such weapon as provided by law, except that upon the certification of a judge of a court of record, the City Attorney or of the District Attorney of the County of Riverside, that the ends of justice will be subserved thereby, the weapon shall be preserved until the necessity for its use ceases. (Ord. 6423 § 1, 1998; Ord. 4918 § 1, 1981)

**Section 9.12.065      Demonstration equipment prohibitions.**

No person shall carry or possess while participating in any demonstration, rally, picket line or public assembly, any length of lumber, wood, or wood lath unless that object is blunt at each end and is one-fourth inch or less in thickness and two inches or less in width, or if not generally rectangular in shape, such object shall not exceed three-quarters inch in its thickest dimension. (Ord. 6762 § 3, 2004)

**Section 9.12.070      Severability.**

If any part or provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, including the application of that part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this chapter are severable. (Ord. 6423 § 1, 1998)

## **Chapter 9.16**

### **LITTER AND LITTERING**

#### **Sections:**

- 9.16.010** Short title.
- 9.16.020** Definitions.
- 9.16.030** Litter in public places.
- 9.16.040** Placement of litter in receptacles so as to prevent scattering.
- 9.16.050** Sweeping litter into gutters prohibited.
- 9.16.060** Merchants' duty to keep sidewalks free of litter.
- 9.16.070** Litter thrown by persons in vehicles.
- 9.16.080** Truck loads causing litter.
- 9.16.090** Litter in parks.
- 9.16.100** Litter in lakes and fountains.
- 9.16.110** Throwing or distributing commercial handbills in public places.
- 9.16.120** Placing commercial and noncommercial handbills on vehicles.
- 9.16.130** Depositing commercial and noncommercial handbills on uninhabited or vacant premises.
- 9.16.140** Prohibiting distribution of handbills where properly posted.
- 9.16.150** Distributing commercial and noncommercial handbills at inhabited private premises.
- 9.16.160** Dropping litter from aircraft.
- 9.16.170** Posting notices prohibited.
- 9.16.180** Litter on occupied private property.
- 9.16.190** Owner to maintain premises free of litter.
- 9.16.200** Litter on vacant lots.
- 9.16.210** Notice to remove.
- 9.16.220** Action upon noncompliance.
- 9.16.230** Abatement by City Manager--Filing of report and account.
- 9.16.240** Hearing upon report of costs--Notice.
- 9.16.250** Hearing--Approval of costs--Lien established.
- 9.16.260** Filing resolution assessing costs as a lien with County Auditor.

#### **Section 9.16.010 Short title.**

This chapter shall be known and may be cited as the "Riverside Anti-Litter Ordinance."  
(Ord. 3422 § 1, 1966)

#### **Section 9.16.020 Definitions.**

For the purposes of this chapter the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

"Aircraft" means any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word "aircraft" includes helicopters and lighter than air dirigibles and balloons;

"Authorized private receptacle" means a litter storage and collection receptacle as

required and authorized in the ordinance regulating the disposal of garbage and waste matter in the City;

"City" means the City of Riverside;

"Commercial handbill" means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:

A. Which advertises for sale any merchandise, product, commodity, or thing; or

B. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or

C. Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided, that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where such license is or may be required by any law of this State, or under any ordinance of this City; or

D. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor;

"Garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food;

"Litter" means "garbage," "refuse," and "rubbish" as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare;

"Newspaper" means any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, means and includes any periodical or current magazine regularly published with not less than four issues per year, and sold to the public;

"Noncommercial handbill" means any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper;

"Park" means a park, reservation, playground, beach, recreation center or any other public area in the City, owned or used by the City and devoted to active or passive recreation;

"Person" means any person, firm, partnership, association, corporation, company or organization of any kind;

"Private premises" means any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure;

"Public place" means any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds, malls and buildings;

"Refuse" means all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes;

"Rubbish" means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials;

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks. (Ord. 3422 § 2, 1966)

#### **Section 9.16.030 Litter in public places.**

No person shall throw or deposit litter in or upon any street, sidewalk, mall or other public place within the City except in public receptacles, in authorized private receptacles for collection, or in official City dumps. (Ord. 3422 § 3, 1966)

#### **Section 9.16.040 Placement of litter in receptacles so as to prevent scattering.**

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property. (Ord. 3422 § 4, 1966)

#### **Section 9.16.050 Sweeping litter into gutters prohibited.**

No person shall sweep into or deposit in any gutter, street, mall or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter. (Ord. 3422 § 5, 1966)

#### **Section 9.16.060 Merchants' duty to keep sidewalks free of litter.**

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street, mall or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the City shall keep the sidewalk in front of their business premises free of litter. (Ord. 3422 § 6, 1966)

#### **Section 9.16.070 Litter thrown by persons in vehicles.**

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the City, or upon private property. (Ord. 3422 § 7, 1966)

#### **Section 9.16.080 Truck loads causing litter.**

No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley, mall or other public place. Nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any street, alley, mall or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind. (Ord. 3422 § 8, 1966)

#### **Section 9.16.090 Litter in parks.**

No person shall throw or deposit litter in any park within the City except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street, mall or other public

place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein. (Ord. 3422 § 9, 1966)

**Section 9.16.100 Litter in lakes and fountains.**

No person shall throw or deposit litter or any foreign substance in any fountain, pond, lake, stream, bay or other body of water in a park, mall, or elsewhere within the City. (Ord. 3422 § 10, 1966)

**Section 9.16.110 Throwing or distributing commercial handbills in public places.**

No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street, mall or other public place within the City. Nor shall any person hand out or distribute or sell any commercial handbill in any public place. Provided, however, that it is not unlawful on any sidewalk, street, mall or other public place within the City for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it. (Ord. 3422 § 11, 1966)

**Section 9.16.120 Placing commercial and noncommercial handbills on vehicles.**

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle. Provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it. (Ord. 3422 § 12, 1966)

**Section 9.16.130 Depositing commercial and noncommercial handbills on uninhabited or vacant premises.**

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant. (Ord. 3422 § 13, 1966)

**Section 9.16.140 Prohibiting distribution of handbills where properly posted.**

No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any manner that the occupants of said premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises. (Ord. 3422 § 14, 1966)

**Section 9.16.150 Distributing commercial and noncommercial handbills at inhabited private premises.**

No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises. Provided, however, that in case of inhabited private premises which are not posted, as provided in this chapter, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets, or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulation.

Exemption for mail and newspapers. The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers (as defined herein) except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property. (Ord. 3422 § 15, 1966)

**Section 9.16.160      Dropping litter from aircraft.**

No person in an aircraft shall throw out, drop or deposit within the City any litter, handbill or any other object. (Ord. 3422 § 16, 1966)

**Section 9.16.170      Posting notices prohibited.**

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamp post, public utility pole or shade tree, or upon any public structure or building, except as may be authorized or required by law. (Ord. 3422 § 17, 1966)

**Section 9.16.180      Litter on occupied private property.**

No person shall throw or deposit litter on any occupied private property within the City, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property. (Ord. 3422 § 18, 1966)

**Section 9.16.190      Owner to maintain premises free of litter.**

The owner or person in control of any private property shall at all times maintain the premises free of litter. Provided, however, that this Section shall not prohibit the storage of litter in authorized private receptacles for collection. (Ord. 3422 § 19, 1966)

**Section 9.16.200      Litter on vacant lots.**

No person shall throw or deposit litter on any open or vacant private property within the City whether owned by such person or not. (Ord. 3422 § 20, 1966)

**Section 9.16.210      Notice to remove.**

The City Manager, or his designated agent, is authorized and empowered to notify the owner of any open or vacant private property within the City or the agent of such owner to properly dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. Such notice shall be by registered mail addressed to said owner at his last known address or may be by personal service upon the owner, or his agent. (Ord. 3422 § 21 (part), 1966)

**Section 9.16.220      Action upon noncompliance.**

Upon the failure, neglect or refusal of any owner or agent so notified, to properly dispose of litter dangerous to the public health, safety or welfare within ten days after receipt of written notice provided for in Section 9.16.210, or within ten days after the date of such notice in the event the same is returned to the City Post Office Department because of its inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner, or agent, the City Manager, or his designated agent, is authorized and empowered to pay for the disposing of such litter or to order its disposal by the City. (Ord. 3422 § 21 (part), 1966)



**Section 9.16.230      Abatement by City Manager--Filing of report and account.**

If the owner fails or neglects to remove the litter within the time specified in this chapter, the City Manager, or his designated agent, shall cause such litter to be removed. The removal work may be done by City crews or by private contractor. A report of the proceedings and an accurate account of the cost of removing the litter on each separate property shall be filed with the City Council. (Ord. 3422 § 21 (part), 1966)

**Section 9.16.240      Hearing upon report of costs--Notice.**

The City Clerk shall thereupon set the report and account for hearing by the City Council at the first regular or adjourned regular meeting which will be held at least seven calendar days after the date of filing, and shall post a copy of such report and account and notice of the time and place of hearing in a conspicuous place at or near the entrance of the council chambers in the City Hall. (Ord. 3422 § 21 (part), 1966)

**Section 9.16.250      Hearing--Approval of costs--Lien established.**

The City Council shall consider the report and account at the time set for hearing, together with any objections or protests by any interested parties. Any owner of land or person interested therein may present a written or oral protest or objection to the report and account. At the conclusion of the hearing, the City Council shall either approve the report and account as submitted or as modified or corrected by the City Council.

The amounts so approved shall be liens upon the respective lots or premises, and the City Council shall adopt a resolution assessing such amounts as liens upon the respective parcels of land as they are shown upon the last available assessment roll, and determining that such litter was dangerous to the public health, safety and welfare and constituted a nuisance. (Ord. 3422 § 21 (part), 1966)

**Section 9.16.260      Filing resolution assessing costs as a lien with County Auditor.**

The City Clerk shall prepare and file with the County Auditor a certified copy of the resolution of the City Council assessing the costs of removal of litter as a lien on the land, adopted pursuant to Section 9.16.250. (Ord. 3422 § 21 (part), 1966)

## **Chapter 9.18**

### **GRAFFITI PREVENTION, PROHIBITION, REMOVAL AND ABATEMENT PROCEDURES**

#### **Sections:**

<b>9.18.010</b>	<b>Purpose and intent.</b>
<b>9.18.015</b>	<b>Definitions.</b>
<b>9.18.020</b>	<b>Graffiti prohibited.</b>
<b>9.18.025</b>	<b>Possession of graffiti implements or paraphernalia prohibited.</b>
<b>9.18.030</b>	<b>Furnishing graffiti implements or paraphernalia to minors prohibited.</b>
<b>9.18.035</b>	<b>Commercial display of aerosol paint containers, paint/graffiti sticks and broad-tipped felt markers.</b>
<b>9.18.040</b>	<b>Graffiti removal at City expense.</b>
<b>9.18.050</b>	<b>Graffiti declared public nuisance.</b>
<b>9.18.060</b>	<b>Abatement.</b>
<b>9.18.070</b>	<b>Private property consent.</b>
<b>9.18.080</b>	<b>Public property.</b>
<b>9.18.090</b>	<b>Limitation of filing judicial action.</b>
<b>9.18.100</b>	<b>Duty to remove graffiti.</b>
<b>9.18.105</b>	<b>Defendant's liability for cost of graffiti abatement.</b>
<b>9.18.110</b>	<b>Severability.</b>

#### **Section 9.18.010 Purpose and intent.**

It is the purpose and intent of this chapter to help prevent the spread of graffiti and to establish a program for its removal from public and private property. The spread of graffiti on public and private buildings, walls, signs and other structures or places or other surfaces causes blight within the City, resulting in a genuine threat to life, incalculable economic losses to businesses in terms of physical property, profits and goodwill, and the general deterioration of property and business values for adjacent and surrounding properties. The power of graffiti to create fear and insecurity within the community and blight upon the landscape, reducing property values and detracting from the sense of the community enjoyed by residents of Riverside is beyond the cost of cleanup or removal. Not only is graffiti a property crime, but a social crime on the quality of life and freedom from intimidation citizens desire within their neighborhoods. (Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993; Ord. 5809 § 1, 1990)

#### **Section 9.18.015 Definitions.**

"Aerosol paint container" means any aerosol container, regardless of the material from which it is made, which is adapted or made for the purpose of spraying paint, dye, or other substances.

"Felt tip marker" means any indelible marker or similar implement with a tip, at its broadest width greater than one-eighth inch, containing anything other than a solution which can be removed with water after it dries.

"Graffiti" means any unauthorized inscription, word, figure, or design that is marked, etched, scratched, drawn, or painted on any surface of public or private property, including but not limited to, buildings, walls, signs, structures or places, or other surfaces, regardless of the nature of the material of the structural component.

"Graffiti implement or paraphernalia" means any aerosol paint container, felt tip marker, paint or graffiti stick, gum label, masonry or glass drill bit, carbide drill bit, glass cutter, grinding stone, awl, carbide scribe, acid etching solutions, or etching tool or device capable of scarring any surface, including, but not limited to glass, metal, concrete or wood or any other marking implement that is commonly used to deface, damage, or destroy property; any piece, design or scrap book or drawings, illustrating graffiti marks or signs.

"Gum label" means any sheet of paper, fabric, plastic or other substance with an adhesive backing which, when placed on a surface, is not easily removed.

"Paint stick or graffiti stick" means any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure, and upon application, leaving a mark at least one-sixteenth of an inch in width.

"Retail commercial establishment" means any business enterprise, including any person, partnership, association, corporation, company, or organization, which sells or trades aerosol paint containers or felt tip marker. (Ord. 6684 § 1, 2003; Ord. 6611 § 1, 2002; Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993; Ord. 5809 § 1, 1990)

#### **Section 9.18.020 Graffiti prohibited.**

A. It is unlawful for any person to write, paint, spray, chalk, etch, or otherwise apply graffiti on public or privately owned buildings, signs, walls, permanent structures, places, or other surfaces located on public or privately owned property within the City.

B. It is unlawful for any person owning or otherwise in control of any real property within the City to permit or allow any graffiti to be placed upon or to remain on any permanent structure located on the property when the graffiti is visible from the street or public or private property. (Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993; Ord. 5809 § 1, 1990)

#### **Section 9.18.025 Possession of graffiti implements or paraphernalia prohibited.**

A. It is unlawful for any person to have in his or her possession any graffiti implement or paraphernalia while in or upon any highway, street, alleyway, public park, playground, swimming pool, public recreational facility, underpass, bridge abutment, storm drain, or private property without the written consent of the owner, with the specific intent to paint, spray, chalk, etch or otherwise apply graffiti on, or deface, damage, disfigure, destroy, or mar any of the following places or things, including but not limited to: public or privately owned buildings, signs, walls, permanent structures, places or other surfaces within the City.

Exceptions:

1. A minor who is attending and is actively enrolled in a class which requires use of such implements, of which written permission from the school is in his or her possession;

2. An authorized City employee of the City of Riverside, or agent thereof, or its contractors.

B. It is unlawful for any minor (person under the age of 18) to have in his or her possession aerosol can tips, other than tips affixed to aerosol cans, and any graffiti implement or paraphernalia, not including aerosol cans, while in or upon any highway, street alleyway, public park, playground, swimming pool, public recreational facility, underpass, bridge abutment, storm drain, or private property without the written consent of the owner, whether the minor is or is not in a vehicle. This section shall not apply to any minor who is accompanied by a parent or guardian or under the immediate supervision of an adult teacher. (Ord. 6611 § 2, 2002; Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993)

#### **Section 9.18.030 Furnishing graffiti implements or paraphernalia to minors prohibited.**

It is unlawful for any person, other than a parent or legal guardian, to sell, exchange,

give, loan, or otherwise furnish, or cause or permit to be exchanged, given, loaned, any graffiti implement or paraphernalia to any person under the age of eighteen years without the prior written consent of the parent or lawfully designated custodian of the minor. (Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993)

**Section 9.18.035 Commercial display of aerosol paint containers, paint/graffiti sticks and broad-tipped felt markers.**

Retail commercial establishments or other vendors shall, pending legal sale, display aerosol paint containers, paint/graffiti sticks, acid etching solutions, and broad-tipped felt markers for sale, only in areas viewable by, but not accessible to the public. (Ord. 6684 § 2, 2003; Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993)

**Section 9.18.040 Graffiti removal at City expense.**

Whenever the Public Works Director or his/her designated representative determines that graffiti is so located on public or private property within the City so as to be capable of being viewed by persons utilizing any public right-of-way in the City, the Public Works Director or his/her designated representative is authorized to provide for the removal of the graffiti solely at the City's expense, without reimbursement from the property owner upon whose property the graffiti has been applied upon the following conditions:

A. In removing the graffiti, the painting or repair shall be limited to the minimum necessary to properly restore the defaced area.

B. Where a structure is owned by a public entity other than the City, the removal of the graffiti may be authorized only after securing the consent of the public entity having jurisdiction over the structure.

C. Where a structure is privately owned, the removal of the graffiti by City forces or by a private contractor under the direction of the City may be authorized only after securing the consent of the owner.

D. The City reserves the right to recover City costs and expenses pursuant to Section 9.18.105 of this Municipal Code, Penal Code Section 594, Civil Code Sections 731 and 1714.1, and Government Code Section 38771, et seq. and Welfare and Institutions Code Section 742.10 et seq. from any person who has willfully damaged property in a manner described within Section 9.18.020 of this Municipal Code. (Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993; Ord. 5809 § 1, 1990)

**Section 9.18.050 Graffiti declared public nuisance.**

Graffiti which the Public Works Director or his/her authorized representative has determined exists on any permanent structure in the City which is visible from a street or other public or private property is declared to be a public nuisance. (Ord. 6514 § 1, 2002; Ord. 6051 § 1, 1993; Ord. 5809 § 1, 1990)

**Section 9.18.060 Abatement.**

Whenever the Public Works Director or his/her authorized representative determines that graffiti on a particular structure constitutes a public nuisance and is unable to secure the consent of the owner for the City to cause the graffiti to be removed, such graffiti shall be abated as follows:

A. Notice. The Public Works Director shall cause a notice to be issued to abate such nuisance. The property owner shall have ten days after the date of the notice to remove the graffiti, or the property will be subject to abatement by the City.

B. Service of Notice. The notice to abate graffiti pursuant to this section shall cause a

written notice to be served upon the owner(s) of the affected premises, as such owner's name and address appears on the last equalized property tax assessment rolls of the County of Riverside. If there is no known address for the owner, the notice shall be sent in care of the property address. The notice required by this chapter may be served in any one of the following manners:

1. By personal service on the owner, occupant or person in charge or control of the property.
2. By certified mail addressed to the owner at the last known address of said owner. If this address is unknown, the notice will be sent to the property address.

The notice shall be substantially in the following form:

#### NOTICE OF INTENT TO REMOVE GRAFFITI

"Date:

NOTICE IS HEREBY GIVEN that you are required by law at your expense to remove or paint over the graffiti located on the property commonly known as \_\_\_\_\_, Riverside, California, which is visible to public view, within ten (10) days after the date of this notice; or, if you fail to do so, City employees or private contractors employed by the City will enter upon your property and abate the public nuisance by removal or painting over the graffiti. The cost of the abatement by the City employees or its private contractors will be assessed upon your property and such costs will constitute a lien upon the land until paid.

All persons having any objection to, or interest in said matters are hereby notified to submit any objections or comments to the Public Works Director for the City of Riverside or his/her designated representative within ten (10) days from the date of this notice. At the conclusion of this ten (10) day period the City may proceed with the abatement of the graffiti inscribed on your property at your expense without further notice."

C. Appeal. Within ten days from the mailing or personal service of the notice, the owner or person occupying or controlling such premises or lot affected may appeal to the City Council of the City of Riverside. At a regular meeting or regular adjourned meeting of the City Council not more than twenty days thereafter, the Council shall proceed to hear and pass upon such appeal. The decision of the Council thereupon shall be final and conclusive.

D. Removal by City. Upon failure of persons to comply with the notice by the designated date, or such continued date thereafter as the Public Works Director or his/her designated representative approves, then the Public Works Director is authorized and directed to cause the graffiti to be abated by City forces or private contract, and the City or its private contractor is expressly authorized to enter upon the premises for such purposes. All reasonable efforts to minimize damage from such entry shall be taken by the City, and any paint used to obliterate graffiti shall be as close as practicable to background color(s).

E. Record of Cost for Abatement. The Public Works Director and/or the Finance Director shall keep an account of costs (including, but not limited to, court costs, attorney's fees, cost of removal of the graffiti or other inscribed material, costs of repair and replacement of defaced property, incidental and administrative costs, and any law enforcement costs incurred in the investigation and apprehension of a person causing the graffiti damage) of abating such nuisance on each separate parcel of land where the work is done and shall render an itemized report in writing to the City Council showing the cost of abatement; provided, that before the report is submitted to the Council a copy shall be served in accordance with the provisions of this section, together with a notice of time when the report shall be heard by the Council for confirmation.

1. The City Council shall set the matter for hearing to determine the correctness and reasonableness of such costs.

2. The term "incidental expenses" shall include, but not be limited to, the actual

expenses and costs of the City in the preparation of notices, specifications and contracts and in inspecting the work, and the costs of printing and mailing required hereunder.

F. Report--Hearing and Proceedings. At the time and place fixed for receiving and considering the report, the City Council shall hear and pass the report of such costs of abatement, together with any objections or protests. Thereupon, the City Council may make such revision, correction or modification in the report as it may deem just, after which, by motion, the report as submitted or as revised, corrected or modified shall be confirmed. The decision of the City Council on all protests and objections which may be made shall be final and conclusive.

G. Assessment of Costs Against Property. The total cost for abating such nuisance, as confirmed by the City Council, shall constitute a special assessment against the respective lot or parcel of land to which it relates, and upon notice and recordation in the office of the Riverside County Recorder of a notice of lien, as so made and confirmed, shall constitute a lien on the property for the amount of such assessment pursuant to Government Code Section 38773.5.

1. After such confirmation and recordation, a copy shall be filed with the Assessor and Tax Collector of Riverside County, acting for the City, in order that said County officials may add the amounts of the respective assessments to the next regular tax bills levied against the respective lots and parcels of land, and thereafter said amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same procedure under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes; or

2. After such recordation, such lien may be foreclosed by judicial or other sale in the manner and means provided by law.

H. Second or subsequent civil judgment. Upon the entry of a second or subsequent civil judgment within a two-year period, the City may find that an owner of property is responsible for a condition that may be abated in accordance with this code section, may request the court order treble damages pursuant to Government Code Section 38773.7. (Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993; Ord. 5809 § 1, 1990)

#### **Section 9.18.070 Private property consent.**

Property owners in the City of Riverside may consent in advance to City entry onto private property for graffiti removal purposes. The City will make forms for such consent available. (Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993; Ord. 5809 § 1, 1990)

#### **Section 9.18.080 Public property.**

Where a structure is owned by a public entity other than the City, the removal of the graffiti may be authorized only after securing the consent of an authorized representative of the public entity having jurisdiction over the structure. (Ord. 6051 § 1, 1993; Ord. 5809 § 1, 1990)

#### **Section 9.18.090 Limitation of filing judicial action.**

Any owner, lessee, occupant or other interested person having any objections or feeling aggrieved at any proceeding taken on appeal by the City Council in ordering the abatement of any public nuisance under the provisions of this chapter, must bring an action to contest such decision within thirty days after the date of such decision of the City Council. Otherwise, all objections to such decision shall be deemed waived. (Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993; Ord. 5809 § 1, 1990)

#### **Section 9.18.100 Duty to remove graffiti.**

Any person applying graffiti to any surface within the City shall have the duty to remove it

within twenty-four hours after being notified by the City, or its agents. Failure to remove the graffiti shall constitute an additional violation of this Chapter. (Ord. 6514 1, 2000; Ord. 6051 § 1, 1993)

**Section 9.18.105 Defendant's liability for cost of graffiti abatement.**

A. Defendant determined to be the responsible party. When the disposition of a criminal case or a proceeding pursuant to Welfare and Institutions Code Section 602 determines that the defendant in that case is responsible for creating, causing or committing the graffiti which was abated by the City, that same defendant shall be liable for all costs incurred by the City. These costs shall include, but are not limited to, court costs, attorney's fees, costs of removal of the graffiti or other inscribed material, costs of repair and replacement of defaced property, and the law enforcement costs incurred by the City in the identification and apprehension of the defendant responsible for the graffiti or other inscribed material on publicly or privately owned permanent real or personal property within the City, as prescribed within Government Code Sections 38772-38773.6, 53069.3.

1. The determination of responsibility shall be presumed by any confession, admission, guilty plea, or plea of nolo contendere to any violation of Penal Code Sections 594, 594.3, 640.5, 640.6, or 640.7.

2. In the case of a minor defendant, responsibility shall be determined upon a conviction by final judgment or by the minor being made a ward of the Juvenile Court pursuant to Welfare and Institutions Code Section 602 by reason of the commission of any act prohibited under Penal Code Sections 594, 594.3, 640.5, 640.6, or 640.7.

B. City funds to be recovered. City shall recover all City funds used to remove graffiti, repair or replace graffiti damaged real or personal property within the City. These costs shall be recovered from the defendant who has been determined to be the responsible party as outlined above. These costs shall be recovered as follows:

1. Adult defendants. A civil action may be pursued to obtain a money judgment against the defendant for any amount not ordered or collected by the criminal court in which the matter was heard. Such money judgments may be filed or recorded to create a lien against personal or real property as permitted by Code of Civil Procedure Section 697.010, et seq.

2. Juvenile defendants. A civil action may be pursued to obtain a money judgment against the juvenile defendant and/or his or her parent(s) or guardian(s) having custody and control of the minor for any amount not ordered or collected by the juvenile court in which the matter was heard. Such money judgments will be filed or recorded to create a lien against personal or real property as permitted by Government Code Sections 38772, et seq.

a. Lien and personal obligation. The expense of abating the graffiti nuisance may result in a lien against the property of a minor and a personal obligation against the minor. The parent(s) or guardian(s) having custody and control of the minor shall be jointly and severally liable with the minor pursuant to Government Code Sections 38772, 38773.2 and 38773.6.

1. Notice of Intent to Lien. Notice of Intent to record a lien shall be given to the owner of record of any parcel prior to the recordation of any lien. The owner may be the minor, or the parent(s) or legal guardian having custody and control of the minor. Said notice shall be served by personal service in the same manner as a civil action in accordance with the Code of Civil Procedure Section 415.10. If the owner of record, after diligent search cannot be found, the notice may be served by posting a copy of the Notice in a conspicuous place upon the property for a period of ten days and publication thereof in a newspaper of general circulation published in the county in which the property is located pursuant to Government Code Section 6062.

2. Recordation. A nuisance abatement lien shall be recorded in the County Recorder's Office in the county in which the parcel of land is located and from the date of recording shall have the force, effect, and priority of a judgment lien.

3. Specific data. A graffiti nuisance abatement lien authorized by this section shall specify the amount of the lien; the name of the agency on whose behalf the lien is imposed; the date of the abatement order; the street address, legal description, and assessor's parcel number of the parcel on which the lien is imposed; and the name and address of the recorded owner of the parcel.

4. If the lien is discharged, released, or satisfied through payment or foreclosure, notice of the discharge containing the information specified in Subsection (3) shall be recorded by the governmental agency. A graffiti nuisance abatement lien and the release of the lien shall be indexed in the grantor-grantee index.

5. A graffiti nuisance abatement lien may be satisfied through foreclosure in an action brought by the City.

6. The City may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien.

b. Special assessment. As an alternate to the nuisance lien, the City may recover its costs, as delineated above, a special assessment against the parcel of land owned by the minor or by the parent or guardian having custody and control of the minor. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes pursuant to Government Code Section 38773.7.

c. Second or subsequent criminal judgment. Upon the entry of a second or subsequent criminal judgment within a two-year period, the City may find that an owner of property is responsible for a condition that may be abated in accordance with this code section, may request the court order treble damages pursuant to Government Code Section 38773.7. (Ord. 6514 § 1, 2000)

#### **Section 9.18.110 Severability.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the chapter. The City Council hereby declares that it would have passed this chapter and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional. (Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993)



## **Chapter 9.20**

### **CIVIL DEFENSE AND DISASTER**

#### **Sections:**

<b>9.20.010</b>	<b>Definitions.</b>
<b>9.20.020</b>	<b>Purposes.</b>
<b>9.20.030</b>	<b>Membership of disaster corps.</b>
<b>9.20.040</b>	<b>Activation of disaster corps.</b>
<b>9.20.050</b>	<b>Multi-hazard functional plan (Disaster operations plan.)</b>
<b>9.20.060</b>	<b>Membership of Disaster Council.</b>
<b>9.20.070</b>	<b>Disaster Council--Powers.</b>
<b>9.20.080</b>	<b>Disaster Council--Meetings.</b>
<b>9.20.090</b>	<b>Emergency Services Director.</b>
<b>9.20.100</b>	<b>Emergency Services Director--Powers and duties.</b>
<b>9.20.110</b>	<b>Office of Emergency Services.</b>
<b>9.20.120</b>	<b>Emergency Services Coordinator.</b>
<b>9.20.130</b>	<b>Orders of members.</b>
<b>9.20.140</b>	<b>Continuity of government.</b>
<b>9.20.150</b>	<b>Powers of succession--City departments.</b>
<b>9.20.160</b>	<b>Violations.</b>

#### **Section 9.20.010 Definitions.**

As used in this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

"Local emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot or earthquake or other conditions, other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of the political subdivision and require the combined forces of other political subdivisions to combat;

"State of emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by such conditions as air pollution, fire, flood, storm, epidemic, riot or earthquake or other conditions, other than conditions resulting from a labor controversy or conditions causing a "state of war emergency," which conditions, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat;

"State of war emergency" means the condition which exists immediately, with or without a proclamation thereof by the Governor, whenever this State or nation is attacked by an enemy of the United States, or upon receipt by the State of a warning from the Federal Government indicating that such an enemy attack is probable or imminent;

Other terms used herein shall have meanings as used in the California Emergency Services Act, Title 2, Division 1, Chapter 7 of the California Government Code. (Ord. 6354 § 1, 1997; Ord. 3948 § 1 (part), 1972)

**Section 9.20.020 Purposes.**

The declared purposes of this chapter are to provide for the preparation and carrying out of plans for the protection of persons and property within the City in the event of the emergency or disaster conditions hereinafter referred to, the direction of the disaster organization; and the coordination of the disaster functions of the City with the County and with all other public agencies, corporations, organizations and affected private parties. (Ord. 6354 § 1, 1997; Ord. 3948 § 1 (part), 1972)

**Section 9.20.030 Membership of disaster corps.**

The City disaster corps consists of all officers and employees of the City and its agencies, together with all volunteers and all groups, organizations and persons commandeered under the provisions of the California Emergency Services Act and this Chapter, with all equipment and material publicly owned, volunteered, commandeered or in any way under the control of the aforementioned personnel, for the support of the aforementioned personnel in the conduct of disaster operations. (Ord 6354 § 1, 1997; Ord. 3948 § 1 (part), 1972)

**Section 9.20.040 Activation of disaster corps.**

The City disaster corps shall be activated and shall function as a disaster relief body, only:

- A. Upon the existence of a "state of war emergency";
- B. Upon the declaration by the Governor of the State, or of persons authorized to act in his stead, of a "state of emergency" affecting and including the City;
- C. Upon the declaration of a "local emergency" by the Board of Supervisors of Riverside County, or by persons authorized to act in its stead, affecting and including the City; or
- D. Upon the declaration of a "local emergency" by the City Council, or by persons herein authorized to act in its stead. (Ord. 6354 § 1, 1997; Ord. 3948 § 1 (part), 1972)

**Section 9.20.050 Multi-hazard functional plan (Disaster operations plan.)**

The disaster corps shall be composed of such elements as are provided for in the Multi-Hazard Functional Plan (disaster operations plan) of the City. The officers of the City shall have the authority and duty to plan for the mobilization, operation and support of that segment of the disaster corps for which each is responsible as provided for in the Multi-Hazard Functional Plan (disaster operations plan) of the City, and to conduct the activities thereof. (Ord. 6354 § 1, 1997; Ord. 3948 § 1 (part), 1972)

**Section 9.20.060 Membership of Disaster Council.**

The City Disaster Council consists of the following persons:

- A. The City Manager, or Assistant City Manager, who shall be its chairman, and shall also be a member of the Riverside County Disaster Council;
- B. The Emergency Services Coordinator, who shall be the secretary, but without vote;
- C. Chief of Police, or a designated representative from the Police Department;
- D. Fire Chief, or a designated representative from the Fire Department;
- E. Public Utilities Director, or a designated representative from the Public Utilities Department;
- F. Public Works Director, or a designated representative from the Public Works Department;
- G. City Council Member, as the City Council may appoint; and
- H. Such additional residents of the City as the City Council may appoint. (Ord. 6354 §

1, 1997; Ord. 3948 § 1 (part), 1972)

**Section 9.20.070 Disaster Council--Powers.**

The Disaster Council shall have power to:

1. Elect a vice-chairman and such other officers as it deems necessary;
2. Enact its own rules of procedure;
3. Review and recommend for adoption to the City Council disaster and mutual aid plans and agreements, and such ordinances and resolutions, rules and regulations as it deems necessary to implement such plans and agreements. (Ord. 6354 § 1, 1997; Ord. 3948 § 1 (part), 1972)

**Section 9.20.080 Disaster Council--Meetings.**

The Disaster Council shall meet upon call of the chairman, or in his absence or inability to call such a meeting, upon call of the vice-chairman, not less frequently than annually. (Ord. 6354 § 1, 1997; Ord. 3948 § 1 (part), 1972)

**Section 9.20.090 Emergency Services Director.**

The City Manager shall be the Emergency Services Director shall have authority over declared City emergency. In the absence, or inability to act, of the City Manager, he shall automatically be succeeded as Emergency Services Director by the following officials in the order named:

- A. Assistant City Manager;
- B. Assistant City Manager-Development;
- C. Police Chief;
- D. Fire Chief;
- E. Public Utilities Director;
- F. Public Works Director. (Ord. 6354 § 1, 1997; Ord. 5788 § 1, 1990; Ord. 3948 § 1 (part), 1972)

**Section 9.20.100 Emergency Services Director--Powers and duties.**

The Emergency Services Director shall have the following powers and duties:

- A. To make appointments, subject to the approval of the City Council, within the disaster corps;
- B. To request the City Council to proclaim the existence of a "local emergency" if the Council is in session, or to issue such proclamation if the Council is not in session. Whenever a "local emergency" is proclaimed by the Director, the City Council shall take action to ratify the proclamation within seven days thereafter or the proclamation shall have no further force or effect;
- C. During the existence of a "state of war emergency," or the proclaimed existence of a "state of emergency" or a "local emergency" affecting the City to:
  1. Control and direct the activities of the City disaster corps,
  2. Use all City resources for the preservation of life and property and to reduce the effects of disaster,
  3. Resolve questions of authority and responsibility that may arise in disaster operations,
  4. Obtain vital supplies, equipment and other resources needed for the preservation of life and property by either binding the City for fair value thereof or, if required immediately, by commandeering same for public use,
  5. Delegate to elected and appointed officials of the City such duties and authorities as

he deems necessary,

6. Make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by any conditions proclaimed as provided herein,

7. Require emergency services of any City officer or employee and to command the aid of as many citizens of the City as he deems necessary in the execution of his duties. Such persons shall be entitled to all privileges, benefits and immunities as are provided by State law for registered disaster service workers,

8. Exercise complete authority over the City by the Constitution and general laws;

D. In addition to the powers granted herein, the Director shall have such powers incidental to the performance of his duties as Director as shall be necessary to allow him to carry out the disaster operations plan of the City, it being the intent of this chapter that the enumerated powers herein are not intended to be limitations upon his powers. (Ord. 6354 § 1, 1997; Ord. 3948 § 1 (part), 1972)

#### **Section 9.20.110 Office of Emergency Services.**

There is created the City Office of Emergency Services, the head of which shall be the Emergency Services Coordinator, who is an employee of the Riverside Fire Department. Said office shall consist of such other positions as may be established by the City Council. (Ord. 6657 § 1, 2003; Ord. 6354 § 1, 1997; Ord. 5503 § 1, 1987; Ord. 3948 § 1 (part), 1972)

#### **Section 9.20.120 Emergency Services Coordinator.**

Power and Duties. The Emergency Services Coordinator shall, prior to the existence of a "state of war emergency," a "state of emergency" or a "local emergency":

A. Develop and coordinate basic disaster planning for the City to provide for the use of all governmental entities; resources and equipment; all commercial and industrial resources; and all such special groups, bodies and organizations as may be needed to support disaster operations;

B. Develop and coordinate such disaster training programs and exercises as may be needed;

C. Develop and coordinate a public information program designed for basic self-protection;

D. Coordinate planning and training with the Riverside County Office of Emergency Services and with other federal, State, County and City disaster or emergency agencies, and with appropriate elements of the Armed Forces;

E. Recommend to the Emergency Services Director for referral to the City Disaster Council matters for consideration within the purview of the Council's responsibilities;

F. Recommend to the Emergency Services Director matters of policy for consideration by the City Council insofar as they relate to disaster and;

G. During a "state of war emergency" or of a "state of emergency" or a "local emergency" affecting the City, the Emergency Services Coordinator shall:

1. Serve as staff advisor to the Emergency Services Director; and

2. Perform such duties as may be assigned by the Director. (Ord. 6354 § 1, 1997; Ord. 5503 § 1, 1987; Ord. 3948 § 1 (part), 1972)

#### **Section 9.20.130 Orders of members.**

During the existence of a "state of war emergency" or of a proclaimed "state of emergency" or "local emergency" affecting the City, each member of the City disaster corps shall have authority to require that all persons follow reasonable orders given by him within the scope of his functions in order to execute the disaster operations plan of the City, and the willful failure of any person to follow such reasonable order or orders is a misdemeanor punishable by

a fine of not more than five hundred dollars or by imprisonment for not more than six months or both. (Ord. 6354 § 1, 1997; Ord. 3948 § 1 (part), 1972)

**Section 9.20.140      Continuity of government.**

For the purposes of this chapter, the line of succession for key personnel of the government of the City shall be as follows:

A. For the Mayor: Mayor Pro Tempore, followed by the remaining City Council Members in the order of their seniority, excluding standby successors;

B. For City Council Members: Pursuant to Section 8638 of the Government Code, the City Council shall appoint three standby successors for each member of the Council. (Ord. 6354 § 1, 1997; Ord. 3948 § 1 (part), 1972)

**Section 9.20.150      Powers of succession--City departments.**

Each person who succeeds to each position of office within a City department as defined by Section 2.08.020 of this code, as provided herein, and as provided in the disaster operations plan of the City, shall succeed to all the powers and duties of the office succeeded to immediately upon such succession. (Ord. 6354 § 1, 1997; Ord. 3948 § 1 (part), 1972)

**Section 9.20.160      Violations.**

It is a misdemeanor and is punishable in accordance with Section 1.01.110 for any person during a disaster to:

A. Willfully obstruct, hinder or delay any member of the City disaster corps in the enforcement of any lawful rule, regulation or order issued pursuant to this chapter, or in the performance of any duty imposed upon them by virtue of this chapter;

B. Do any act forbidden by any lawful rule, regulation or order issued pursuant to this chapter if such is of such a nature as to give, or be likely to give, assistance to the enemy, or to imperil life or property, or to prevent, hinder or delay the defense or protection of persons or property;

C. Wear, carry or display, without authority, any means of identification specified by the civil defense and/or disaster agencies of the federal or State governments. (Ord. 6354 § 1, 1997; Ord. 5258 § 8, 1985; Ord. 3948 § 1 (part), 1972)

## **Chapter 9.28**

### **ABANDONED, WRECKED OR INOPERATIVE VEHICLES**

#### **Sections:**

- 9.28.010 Chapter purpose--Definitions.**
- 9.28.020 Chapter exemptions.**
- 9.28.030 Chapter supplemental to other codes.**
- 9.28.040 Administration and enforcement.**
- 9.28.050 Franchise for removal.**
- 9.28.060 Administration cost assessment.**
- 9.28.070 Abatement and removal.**
- 9.28.080 Notice of intention to abate and remove.**
- 9.28.090 Request for hearing.**
- 9.28.100 Hearing.**
- 9.28.110 Disposal of nuisance.**
- 9.28.120 Notice to Department of Motor Vehicles.**
- 9.28.130 Assessment of costs.**

#### **Section 9.28.010 Chapter purpose--Definitions.**

In addition to and in accordance with the determination made and the authority granted by the State under Section 22660 of the Vehicle Code to remove abandoned, wrecked, dismantled or inoperative vehicles or parts thereof as public nuisances, the City Council makes the following findings and declarations:

The accumulation and storage of abandoned, wrecked, dismantled or inoperative vehicles or parts thereof on private or public property not including highways is found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects and to be injurious to the health, safety and general welfare. Therefore the presence of an abandoned, wrecked, dismantled or inoperative vehicle or part thereof, on private or public property not including highways, except as expressly hereinafter permitted, is declared to constitute a nuisance which may be abated as such in accordance with the provisions of this chapter.

As used in this chapter:

"Highway" means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. "Highway" includes street;

"Owner of the land" means the owner of the land on which the vehicle, or parts thereof, is located, as shown on the last equalized assessment roll;

"Owner of the vehicle" means the last registered owner and legal owner of record.

"Public property" does not include "highway";

"Vehicle" means a device by which any person or property may be propelled, moved, or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks. (Ord. 3828 § 1 (part), 1971)

#### **Section 9.28.020 Chapter exemptions.**

This chapter shall not apply to:

A. A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or

B. A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junk dealer, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.

Nothing in this section shall authorize the maintenance of a public or private nuisance as defined under provisions of law other than Chapter 10 (commencing with Section 22650) of Division 11 of the Vehicle Code and this chapter. (Ord. 3828 § 1 (part), 1971)

#### **Section 9.28.030 Chapter supplemental to other codes.**

This chapter is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles within the City. It shall supplement and be in addition to the other regulatory codes, statutes and ordinances heretofore or hereafter enacted by the City, the State, or any other legal entity or agency having jurisdiction. (Ord. 3828 § 1 (part), 1971)

#### **Section 9.28.040 Administration and enforcement.**

Except as otherwise provided herein, the provisions of this Chapter shall be administered and enforced by the Chief of Police, the Community Development Director, and/or the Public Works Director and/or the authorized representative thereof. In the enforcement of this Chapter such code enforcement officers and law enforcement officers may enter upon private or public property to examine a vehicle or parts thereof, or obtain information as to the identity of a vehicle (and to remove or cause the removal of a vehicle or part thereof) declared to be a nuisance pursuant to this Chapter. (Ord. 6844 § 16, 2006; Ord. 5847 § 1, 1990; Ord. 3823 § 1 (part), 1971)

#### **Section 9.28.050 Franchise for removal.**

When the City Council has contracted with or granted a franchise to any person or persons, such person or persons shall be authorized to enter upon private property or public property to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this chapter. (Ord. 3828 § 1 (part), 1971)

#### **Section 9.28.060 Administration cost assessment.**

The City Council shall from time to time determine and fix an amount to be assessed as administrative costs (excluding the actual cost of removal of any vehicle or part thereof) under this chapter. (Ord. 3828 § 1 (part), 1971)

#### **Section 9.28.070 Abatement and removal.**

Upon discovering the existence of an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, on private property or public property within the City, the Chief of Police, the Community Development Director, and/or the Public Works Director and/or the authorized representative thereof shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed herein. (Ord. 6844 § 17, 2006; Ord. 5847 § 2, 1990; Ord. 3828 § 1 (part), 1971)

#### **Section 9.28.080 Notice of intention to abate and remove.**

A. Unless the property owner and the owner of the vehicle have signed releases authorizing removal and waiving further interest in the vehicle or part thereof, a ten-day notice of intention to abate and remove the vehicle or parts thereof as a public nuisance shall be mailed by certified mail to the owner of the land and to the owner of the vehicle except when the vehicle

is in such condition that identification numbers are not available to determine ownership of such vehicle.

The notices of intention shall be in substantially the following forms:

**"NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLE OR PARTS THEREOF AS A PUBLIC NUISANCE.**

(Name and address of owner of the land)

As owner shown on the last equalized assessment roll of the land located at (address), you are hereby notified that the undersigned pursuant to (section of ordinance or Municipal Code) has determined that there exists upon said land an (or parts of an) abandoned, wrecked, dismantled or inoperative vehicle registered to, license number, which constitutes a public nuisance pursuant to the provisions of (ordinance or Municipal Code chapter number).

You are hereby notified to abate said nuisance by removal of said vehicle (or said parts of a vehicle) within 10 days from the date of mailing of this notice, and upon your failure to do so the same will be abated and removed by the City of Riverside and the costs thereof, together with administrative costs, assessed to you as owner of the land on which said vehicle (or said part of a vehicle) is located.

As owner of the land on which said vehicle (or said parts of a vehicle) is located, you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the Code Enforcement Manager, Code Enforcement Division of the Community Development Department of the City of Riverside within such 10-day period, the Chief of Police, the Community Development Director, the Public Works Director and/or the authorized representative thereof shall have the authority to abate and remove said vehicle (or said parts of a vehicle) as a public nuisance and assess the costs as aforesaid without a public hearing. You may submit a sworn written statement within such 10-day period denying responsibility for the presence of said vehicle (or said parts of a vehicle) on said land, with your reasons for denial, and such statement shall be construed as a request for hearing at which your presence is not required. You may appear in person at any hearing requested by you or the owner of the vehicle or, in lieu thereof, may present a sworn written statement as aforesaid in time for consideration at such hearing. Notice mailed s/ (Date) (Title)" **"NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLE OR PARTS THEREOF AS A PUBLIC NUISANCE.** (Name and address of last registered and/or legal owner of record of vehicle--notice should be given to both if different) As last registered (and/or legal) owner of record of (description of vehicle - make, model, license, etc.) you are hereby notified that the undersigned pursuant to Chapter 9.28 of the Riverside Municipal Code has determined that said vehicle (or parts of a vehicle) exists as an abandoned, wrecked, dismantled or inoperative vehicle at (describe location on public or private property) and constitutes a public nuisance pursuant to the provisions of Chapter 9.28 of the Riverside Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle (or said parts of a vehicle) within 10 days from the date of mailing of this notice. As registered (and/or legal) owner of record of said vehicle (or said parts of a vehicle), you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing and if such request is not received by the Code Enforcement Manager, Code Enforcement Division of the Community Development Department of the City of Riverside within such a 10-day period, the Chief of Police, the Code Enforcement Manager, the Public Works Director and/or the authorized representative thereof shall have the authority to abate and remove said vehicle (or parts of a vehicle) without a hearing. Notice mailed s/ Date) (Title)"

B. Notwithstanding the provisions of Subsection (A) above, the notice of intention is not required for removal of a vehicle or part thereof which is inoperable due to the absence of a motor, transmission, or wheels and incapable of being towed, is valued at less than two hundred dollars by a person specified in Section 22855 of the Vehicle Code of the State of California,



and is determined by the City to be a public nuisance presenting an immediate threat to public health or safety, provided that the property owner has signed a release authorizing removal and waiving further interest in the vehicle or part thereof. Prior to final disposition under Section 9.28.110 of such a low-valued vehicle or part for which evidence of registration was recovered, the City shall provide notice to the registered and legal owners of intent to dispose of the vehicle or part, and if the vehicle or part is not claimed and removed within twelve days after the notice is mailed, from the location specified in Section 9.28.110, final disposition may proceed. This subsection applies only to inoperable vehicles located upon a parcel that is (1) zoned for agricultural use or (2) not improved with a residential structure containing one or more dwelling units. (Ord. 6844 § 18, 2006; Ord. 6091 § 1, 1993; Ord. 5927 § 1, 1991; Ord. 5847 § 3, 1990; Ord. 5491 § 1, 1987; Ord. 3828 § 1 (part), 1971)

#### **Section 9.28.090 Request for hearing.**

Upon request by the owner of the vehicle or owner of the land received by the Code Enforcement Manager, Code Enforcement Division of the Community Development Department within ten days after the mailing of the notices of intention to abate and remove, a public hearing shall be held as set forth in Section 6.15.030 by the hearing officer on the question of abatement and removal of the vehicle or parts thereof as an abandoned, wrecked, dismantled or inoperative vehicle, and the assessment of the administrative costs and the cost of removal of the vehicle or parts thereof against the property on which it is located. If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his land within such ten-day period, said statement shall be construed as a request for a hearing which does not require his presence. Notice of the hearing shall be mailed, by certified mail, at least ten days before the hearing to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. If such a request for hearing is not received within said ten days after mailing of the notice of intention to abate and remove, the City shall have the authority to abate and remove the vehicle or parts thereof as a public nuisance without holding a public hearing. (Ord. 6844 § 19, 2006; Ord. 5927 § 2, 1991; Ord. 5491 § 2, 1987; Ord. 3828 § 1 (part), 1971)

#### **Section 9.28.100 Hearing.**

All hearings under this chapter shall be held before a hearing officer who shall hear all facts and testimony such hearing officer deems pertinent. Said facts and testimony may include testimony on the condition of the vehicle or parts thereof and the circumstances concerning its location on the said private property or public property. The hearing officer shall not be limited by the technical rules of evidence. The owner of the land may appear in person at the hearing or present a sworn written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his reasons for such denial.

The hearing officer may impose such conditions and take such other action as the hearing officer deems appropriate under the circumstances to carry out the purpose of this chapter. The hearing officer may delay the time for removal of the vehicle or parts thereof if, in the hearing officer's opinion, the circumstances justify it. At the conclusion of the public hearing, the hearing officer may find that a vehicle or parts thereof has been abandoned, wrecked, dismantled or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as hereinafter provided and determine the administrative costs and the cost of removal to be charged against the owner of the land. The order requiring removal shall include a description of the vehicle or parts thereof and the correct identification number and license number of the vehicle, if available at the site.

If it is determined at the hearing that the vehicle was placed on the land without the consent of the owner of the land and that he has not subsequently acquiesced in its presence,

the hearing officer shall not assess the costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such owner of the land.

If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his land but does not appear, or if an interested party makes a written presentation to the hearing officer but does not appear, he shall be notified in writing of the decision.

The decision of the hearing officer shall be final and the appellant may not appeal such decision to the City Council. (Ord. 5927 § 3, 1991; Ord. 5491 § 3, 1987; Ord. 3828 § 1 (part), 1971)

#### **Section 9.28.110      Disposal of nuisance.**

Five days after adoption of the order declaring the vehicle or parts thereof to be a public nuisance, five days from the date of mailing of notice of the decision if such notice is required by Section 9.28.100, or fifteen days after such action of the hearing officer authorizing removal following appeal, the vehicle or parts thereof may be disposed of by removal to a scrapyard or automobile dismantler's yard. After a vehicle has been removed, said vehicle shall not thereafter be reconstructed or made operable unless it is a vehicle which qualifies for either horseless carriage license plates or historical vehicle license plates, pursuant to Section 5004 of the Vehicle Code, in which case the vehicle may be reconstructed or made operable. (Ord. 6091 § 2, 1993; Ord. 3828 § 1 (part), 1971)

#### **Section 9.28.120      Notice to Department of Motor Vehicles.**

Within five days after the date of removal of the vehicle or parts thereof, notice shall be given to the Department of Motor Vehicles identifying the vehicle or parts thereof removed. At the same time there shall be transmitted to the Department of Motor Vehicles any evidence of registration available, including registration certificates, certificates of title and license plates. (Ord. 3828 § 1 (part), 1971)

#### **Section 9.28.130      Assessment of costs.**

If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to Sections 9.28.080 or 9.28.100 are not paid within thirty days of the date of the order, or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Section 38773.5 of the Government Code and shall be transmitted to the tax collector for collection. Said assessment shall have the same priority as other City taxes. (Ord. 6091 § 3, 1993; Ord. 3828 § 1 (part), 1971)

## **Chapter 9.30**

### **SEIZURE AND FORFEITURE OF NUISANCE VEHICLES**

#### **Sections:**

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#### **Section 9.30.010      Statement of purpose and intent.**

##### **A. Introduction.**

1. The City Council has determined that illegal dumping; drug offenses; and illegal street racing are nuisance activities that endanger the public health and safety. Vehicles used in these nuisance activities are themselves nuisances to be abated through seizure and forfeiture as provided in this chapter.

2. The procedures presented in this chapter for the seizure and forfeiture of nuisance vehicles are expressly intended as a remedy to abate these nuisances, to protect the City's residents and the public from harm to their health, safety, and welfare; to avoid the destruction and injury to lives and property; and to compensate the City for economic damages incurred as a result of the occurrence of these nuisance activities. Examples of such damages are the costs of cleaning up illegal dump sites, and diverting limited police and public works resources to address these nuisance activities through direct enforcement or other programs. Any deterrent effect is deemed incidental to the remedial purpose of this ordinance.

##### **B. Illegal dumping.**

The City Council has determined that people who use vehicles to illegally dump waste matter or attempt to do so, or transport waste matter for the purpose of illegally dumping it, within the City; bring decay and blight into the City's neighborhoods, create public health hazards, and invite more illegal dumping. Such blight, decay, and unhealthful conditions adversely affect the quality of life for the City's residents, lead to a reduction in the values of their property, and invite criminal activity. The City Council finds there is a need to provide for the abatement of such nuisance vehicles.

##### **C. Drug offenses.**

The City Council has determined that people who use vehicles to acquire or sell controlled substances, or make any attempt to do so, bring crime and decay into the City's neighborhoods. The City Council finds there is a need to provide for the abatement of such nuisance vehicles.

##### **D. Illegal street racing.**

The City Council has determined that people who use vehicles for illegal street racing create

an immediate threat to public safety. Participation in street racing requires drivers and other participants to use vehicles to blatantly violate motor vehicle laws. Such activity has been known to cause serious injuries and deaths in several cities throughout California and imperil innocent residents and the public. Such activity contributes to an increase in crime, particularly offenses involving alcohol and controlled substances. The City Council finds there is a need to provide for the abatement of such nuisance vehicles. (Ord. 6780 §1, 2005 (part); Ord 6677 §1, 2003; Ord 6648 § 1, 2003)

#### **Section 9.30.020 Definitions.**

"Business day" shall mean any weekday other than a Saturday, Sunday, or a legal holiday which falls on a day other than a Saturday or Sunday.

"City" shall mean the City of Riverside.

"City Attorney" shall mean the City Attorney of the City of Riverside or that person's designated Supervising Deputy City Attorney or Deputy City Attorney.

"Claimant" shall mean any person claiming an interest in a nuisance vehicle subject to forfeiture under this chapter, either by properly requesting a post-seizure hearing as set forth in § 9.30.080 D, or properly filing a claim opposing forfeiture as set forth in § 9.30.090 D.

"Controlled substance" shall mean a drug, substance, or immediate precursor that is now or hereafter listed in any schedule in California Health and Safety Code §§ 11054, 11055, 11056, 11057, or 11058, or their successor provisions or sections.

"Exhibition of speed" shall mean a willful act of showing off or displaying a dangerous or imprudent speed in a vehicle on a highway where the presence of another person is known to the driver or may be reasonably anticipated by the driver. In order to constitute an exhibition of speed under this chapter, there must be at least two spectators present at the event.

"Highway" shall mean a way or place of whatever nature, which is used or can be used by the public for vehicular travel. It does not include a facility which is specifically designed and legally maintained and operated for the purposes of speed contests or exhibitions of speed.

"Illegal dumping" shall mean the willful or intentional depositing, dropping, dumping, placing, or throwing of any waste matter onto that portion of public or private property located within the City and which is not expressly designated by the City for the purpose of disposal of waste matter. "Illegal dumping" does not include the discarding of small quantities of waste matter related to consumer goods only and which are reasonably understood to be ordinarily carried on or about the body of a living person, including but not limited to, beverage containers and closures, packaging, wrappers, wastepaper, newspapers, magazines, or other similar waste matter that escapes or is allowed to escape from a container, receptacle or package.

"Local law enforcement or governmental entities" means any city, charter city, county, or city and county, or the respective departments thereof, in this state.

"Nuisance" shall have the same meaning as set forth in Civil Code § 3479.

"Owner" shall mean the last registered owner; the last legal owner; and any, then-existing lien holder; of record as shown on the records of the Department of Motor Vehicles or similar state or federal agency, for any vehicle used for any of the nuisance activities subject to this chapter.

"Speed contest" shall mean a contest or event where a vehicle is raced on a highway against another vehicle, a clock, or other timing device. In order to constitute a speed contest under this section, at least two vehicles must be assembled or at least two spectators must be present at the event. An event where the time to cover a prescribed route of more than 20 miles is measured, but where the vehicle does not exceed the speed limit is not a speed contest.

"Street racing" and "street race" shall mean a speed contest or exhibition of speed as those terms are defined in this section.

"Vehicle" shall mean a vehicle as that term is defined in California Vehicle Code § 670,

and a motor vehicle as that term is defined in California Vehicle Code § 415.

"Waste matter" shall mean any form of tangible matter described by any of the following categories:

- 1.) All forms of garbage, refuse, rubbish, recyclable materials, and solid waste as those terms are defined in § 6.04.010 of this Code;
- 2.) Dirt, soil, rock, decomposed rock, gravel, sand, or other aggregate material;
- 3.) Abandoned or discarded furniture, or commercial or industrial or agricultural machinery, apparatus, structure, or container; sports or athletic equipment; or any piece, portion or part thereof;
- 4.) All forms of liquid waste not otherwise defined in or otherwise deemed to fall within the purview of § 6.04.010 of this Code or Health and Safety Code § 25117, including but not limited to, gray water, black water, water-based or oil-based paints; chemical solutions; non-potable water, except as specifically used for irrigation or construction; non-potable water contaminated with any substance rendering it unusable for irrigation or construction; oils, fuels, and other petroleum distillates or by-products;
- 5.) Hazardous waste as that term is defined in § 6.04.010 of this Code and in Health and Safety Code § 25117;
- 6.) Any form of biological waste not otherwise designated by this Code or other applicable law as hazardous waste; including but not limited to bodily fluids, body parts, carcasses, and any associated container, enclosure, or wrapping material used to dispose of such matter; and
- 7.) Any physical substance used as an ingredient in any process, now known or hereafter developed or devised, to manufacture any controlled substance specified in Health and Safety Code §§ 11054, 11055, 11056, 11057, 11058, or their successor provisions or sections; or which is a by-product or result of any such manufacturing process. (Ord. 6780 § 1, 2005 (part); Ord 6677 § 2, 2003; Ord. 6648 § 1, 2003)

### **Section 9.30.030      Abatement of nuisance vehicles by seizure and forfeiture.**

A. Pursuant to the City's authority and power under Article II, Section 200 of the City's Charter to make and enforce all laws and regulations regarding municipal affairs, and pursuant to Government Code § 38771; the City declares that:

- 1.) Any vehicle used to illegally dump waste matter or attempt to do so in violation of this Code or other applicable state law is a nuisance;
- 2.) Any vehicle used to transport waste matter for the purpose of illegal dumping in violation of this Code or other applicable state law is a nuisance;
- 3.) Any vehicle used to acquire, attempt to acquire, sell, or attempt to sell any controlled substance in violation of applicable state or other law is a nuisance, subject to the limitation set forth at § 9.30.030 E; and
- 4.) Any vehicle used for street racing is a nuisance.

B. All such nuisance vehicles shall be abated through seizure and forfeiture procedures as provided in this chapter, subject to the forfeiture exceptions set forth at § 9.30.110.

C. A criminal conviction shall not be required as a prerequisite to any forfeiture proceeding brought pursuant to the authority of this chapter, except as provided in § 9.30.030 E.

D. Physical seizure of a nuisance vehicle subject to this chapter shall not be required as a prerequisite to institution of forfeiture proceedings.

E. Section 9.30.030 A.3 shall apply only to those persons who have been convicted of any drug-related offense within five (5) years prior to the date of the commission of the act giving rise to the nuisance under this chapter. (Ord. 6780 § 1 (part); Ord. 6648 § 1, 2003)

**Section 9.30.040 Responsible persons.**

Any person who owns, leases, borrows, possesses, maintains, or uses any vehicle for any of the purposes or acts set forth in this chapter is responsible for creating a public nuisance. (Ord. 6780 § 1, 2005 (part); Ord. 6648 § 1, 2003)

**Section 9.30.050 Right, title and interest in nuisance vehicles.**

All right, title and interest in any nuisance vehicle described in Section 9.30.030 shall vest in the City upon commission of the act giving rise to the nuisance under this chapter; except for those vehicles subject to the forfeiture exceptions set forth at § 9.30.110. (Ord. 6780 § 1, 2005 (part); Ord. 6648 § 1, 2003)

**Section 9.30.060 Authority for seizure of nuisance vehicles.**

Nuisance vehicles subject to forfeiture under this chapter may be seized by any peace officer upon process issued by any court having jurisdiction over the vehicle. Seizure without process may be made if any of the following situations exist:

- A. The seizure is incidental to an arrest or a search under a search warrant;
- B. There is probable cause to believe that the vehicle was used in violation of this chapter based upon a reasonable investigation of the facts. (Ord. 6780 § 1, 2005, (part); Ord. 6648 § 1, 2003)

**Section 9.30.070 Process for seizure.**

- A. Investigation of vehicle ownership interests.

The Riverside Police Department shall make a prompt investigation as to any potential claimant to a nuisance vehicle that is subject to this chapter whose right, title, interest, or lien is of record in the Department of Motor Vehicles of this state or any other state or appropriate federal agency.

- B. Notice of seizure.

1. At the time a nuisance vehicle is seized pursuant to this chapter by the Riverside Police Department, the seizing officer shall provide a notice of seizure to the person from whose possession the vehicle was seized.

2. If the Riverside Police Department's investigation reveals any potential claimants, other than the person from whom the nuisance vehicle was seized, and whose right, title, interest or lien existed prior to the date of the commission of the act giving rise to the nuisance; then the Riverside Police Department shall send a notice of seizure to each such claimant within three business days following the date the vehicle was seized. Such notice shall be served by regular mail at the claimant's address appearing on the records of the applicable state's Department of Motor Vehicles or appropriate federal agency. The Riverside Police Department shall forward a copy of each such notice to the City Attorney.

- 3. The notice of seizure shall include the following:

- (a) A description of the seized vehicle, including its make, model, license plate number and Vehicle Identification Number (VIN);

- (b) The location, authority, and reason for the vehicle's seizure by the Riverside Police Department;

- (c) A statement describing the opportunity for a post-seizure hearing as specified in § 9.30.080 and the requirements and time limits for requesting such a hearing; and

- (d) A statement that a report of the seizure investigation shall be sent to the City Attorney for review for institution of forfeiture proceedings.

- C. Receipts.

1. Receipts for nuisance vehicles seized pursuant to this chapter shall be delivered to any person from whose possession such vehicle was seized. Where such a possessor is

arrested for a public offense incidental to the vehicle's seizure, then the receipt shall be issued in accordance with Penal Code § 1412. For the purposes of this chapter, neither Penal Code § 1412 nor any provision of this chapter shall be construed as precluding the delivery of a completed Vehicle Report (CHP 180 Form) as the receipt required by this section.

2. There shall be a presumption affecting the burden of proof that a person to whom a receipt was issued is an owner of the seized vehicle. This presumption may be rebutted at the trial specified in § 9.30.100 A.2.

D. Towing and storage.

The Riverside Police Department shall make arrangements for the towing of a seized vehicle and its storage at a City facility designated by the Public Works Director or that person's designated agent.

E. Seized vehicles as evidence.

A nuisance vehicle seized pursuant to this chapter, where appropriate, may be held for evidence in any proceeding brought by the City Attorney or District Attorney.

F. No seizure; notice of potential claimant.

In those instances where a nuisance vehicle subject to this chapter is identified but not seized and the Riverside Police Department's investigation reveals any potential claimants whose right, title, interest or lien existed prior to the date of the commission of the act giving rise to the nuisance; then the Riverside Police Department shall provide the name, address, and other identifying information, if any, of each potential claimant to the City Attorney. (Ord. 6780 §1, 2005 (part); Ord 6648 §1, 2003)

### **Section 9.30.080 Post-seizure hearing.**

A. Opportunity for hearing.

The Riverside Police Department shall provide any potential claimants, discovered as a result of its investigation of vehicle ownership interests, with the opportunity for a post-seizure hearing to determine the validity of the seizure, that is, whether there was probable cause to believe the vehicle was used in violation of this chapter.

B. Manner of hearing.

The Riverside Police Department shall have the authority, but not the obligation, to conduct this hearing in the same manner as a vehicle post-storage hearing conducted pursuant to Vehicle Code § 22852.

C. Hearing officer.

The Riverside Police Department may authorize its own officer or employee to act as a hearing officer and conduct the post-seizure hearing, provided that the officer so chosen is not the same person who directed or participated in the seizure of the nuisance vehicle.

D. Request for hearing.

Any claimant who desires a post-seizure hearing must make a request to the Riverside Police Department in person, or in writing, or by telephone as specified in the notice of seizure. The request must be made within ten business days of the date of the notice of seizure. Failure to make a request within the time allowed shall constitute the claimant's waiver of any right to a post-seizure hearing and satisfies the requirement for such a hearing.

E. Time for hearing.

The post-seizure hearing shall be conducted within five business days of the date of the first request received by the Riverside Police Department from any claimant.

F. Multiple claimants; notice of hearing.

1. If there are multiple claimants, then upon receipt of the first request for a post-seizure hearing, the Riverside Police Department shall send written notice, by regular mail, of the date, time, and location of the post-seizure hearing to the remaining claimants.

2. The Riverside Police Department shall not be required to conduct multiple post-

seizure hearings for each seized nuisance vehicle.

3. Claimants who cannot attend the post-seizure hearing as scheduled, and wish to be heard, may send a written statement for the hearing officer's consideration to the Riverside Police Department at the address specified in the notice of seizure.

G. Findings of hearing officer.

1. If the hearing officer determines that no probable cause existed for the seizure, the vehicle shall be released as soon as practicable to the appropriate claimant without imposing any towing and/or storage charges. The City Attorney and each claimant shall be notified of the release.

2. If the hearing officer determines that probable cause for the seizure existed and that the seized vehicle may be subject to the forfeiture exceptions set forth at § 9.30.110, the hearing officer shall confer with the City Attorney as soon as possible. Upon the determination of the City Attorney that a forfeiture exception applies, the vehicle shall be released as soon as practicable to the appropriate claimant without imposing any towing and/or storage charges. The City Attorney and each claimant shall be notified of the release.

3. If the hearing officer determines that probable cause existed for the seizure, then forfeiture proceedings against the vehicle will continue as provided in § 9.30.090. (Ord. 6780 § 1, 2005 (part); Ord. 6648 § 1, 2003)

**Section 9.30.090 Administrative forfeiture proceedings.**

A. Application.

The provisions of this section shall apply only to nuisance vehicles actually seized under the authority of this chapter.

B. Factual determination.

The City Attorney shall determine from the police reports and other relevant information, if any, whether the factual circumstances surrounding the seizure warrant forfeiture of the seized vehicle.

C. Notice of administrative proceedings.

1. In those instances where forfeiture is warranted, the City Attorney shall cause a notice of administrative proceedings to be sent by certified mail, return receipt requested, to each potential claimant identified by the Riverside Police Department. Personal service shall not be required. This notice shall be accompanied by a claim form.

2. The notice of administrative proceedings shall include the following:

(a) The vehicle and seizure information presented in the notice of seizure;

(b) Notice that administrative forfeiture proceedings have begun and can be opposed only by filing a claim opposing forfeiture, the time limits for filing the claim, and instructions for filing and serving the claim; and

(c) Notice that failure to properly file and serve the claim will result in forfeiture of the vehicle.

3. The City Attorney shall serve the notice of administrative proceedings as soon as practicable, but in any event within 30 business days of the date the last police report for the seizure is received by the City Attorney's office.

4. If a claimant entitled to notice resides out of state and has refused or failed to accept certified mail, then service may be made by regular mail.

5. If a claimant entitled to notice cannot be located, or service as required by this section cannot otherwise be effected, then service may be made by publication in a Riverside newspaper of general circulation. Such service shall be deemed sufficient when it is accomplished pursuant to Government Code § 6063 or its successor provision or section.

6. The City Attorney shall send written notice to the Department of Motor Vehicles, Registration Operations Division, Involuntary Transfer Section, requesting that a Vehicle



License and Title stop be placed against the DMV record of the seized nuisance vehicle.

D. Claim opposing forfeiture.

1. A claimant seeking to oppose the administrative forfeiture of a seized nuisance vehicle must file a claim, using the Claim Opposing Forfeiture form, within ten business days of the date of the notice of administrative proceedings.

2. The claim must be verified in accordance with § 446 of the Code of Civil Procedure, or its successor provision or section.

3. The claim must be filed with the Civil Division, Court Clerk of the Riverside County Superior Court.

4. The claimant must serve a court-conformed copy of the claim upon the City Attorney within ten business days of the date on which it was filed.

5. Upon the proper filing and service of a Claim Opposing Forfeiture form, the forfeiture proceedings will continue as provided in § 9.30.100.

E. Failure to file claim; order of forfeiture.

1. The failure of a claimant to properly file and serve a claim opposing forfeiture shall result in the waiver of the claimant's interest in the seized nuisance vehicle.

2. The City Attorney may, pursuant to this section, declare and order the forfeiture of a seized nuisance vehicle in those cases where no claims are properly filed and served.

F. City Attorney declaration of forfeiture.

1. The City Attorney shall prepare a written declaration of forfeiture of the seized nuisance vehicle and dispose of it in accordance with § 9.30.120. The declaration of forfeiture signed by the City Attorney under this section shall be deemed to provide good and sufficient legal title to the vehicle so forfeited.

2. The City Attorney shall serve, by regular mail, a copy of the declaration to each claimant who received a notice of administrative proceedings. (Ord. 6780 § 1, 2005 (part); Ord. 6648 § 1, 2003)

**Section 9.30.100      Judicial forfeiture proceedings.**

A. Cases involving seized nuisance vehicles.

1. Petition for forfeiture.

(a) If a claim is properly filed and served, thereby contesting the administrative forfeiture; then the forfeiture shall proceed through a judicial proceeding. The City Attorney shall file a petition for forfeiture pursuant to this section within thirty business days of the receipt of the claim.

(b) The City Attorney shall serve a copy of the petition by regular mail to all claimants who properly filed and served a claim. The City Attorney shall not be required to serve a copy of the petition on any other claimants.

2. Trial.

(a) Upon the filing of a petition for forfeiture, the forfeiture proceeding shall be set for hearing. The hearing shall be a trial before the court or jury in the Superior Court of Riverside County. The presiding judge of the Superior Court, or that judge's designated agent, shall assign the case for trial. The initial date for trial shall be set on a date not less than thirty business days from the date the petition for forfeiture was filed. The trial date may be continued upon stipulation of the parties, or upon a proper motion to the department of the court to which the case is assigned.

(b) The trial shall be a civil in rem proceeding directed at vehicles subject to this chapter.

(c) The provisions of the Code of Civil Procedure shall apply at trial unless otherwise inconsistent with the provisions or procedures set forth in this chapter. Further, in such a trial, there shall be no cross-complaints, and no joinder of actions or coordination of actions, except

for related forfeiture proceedings. The issues shall be limited strictly to the questions related to this chapter.

(d) At trial, the City of Riverside shall have the burden of proving by a preponderance of the evidence that the vehicle was used in violation of this chapter.

B. Cases involving nuisance vehicles that have not been seized.

1. Seizure order.

(a) Where sufficient reason under this chapter warrants the seizure and forfeiture of a nuisance vehicle and that vehicle has not been seized; the City Attorney may proceed by seeking a seizure order in conjunction with the filing of a petition for forfeiture. The seizure order may be supported by the same affidavit/s or declaration/s offered in support of the petition. The supporting affidavit/s or declaration/s shall be those of the investigating officer/s of the Riverside Police Department, and officers of other law enforcement agencies or the employees of other City departments involved, if any, who have personal knowledge of the facts.

(b) In those cases where there is sufficient reason to believe that persons in possession of the nuisance vehicle for which a seizure order is sought are likely to conceal or dispose of the vehicle, or otherwise attempt to prevent its seizure, then the City Attorney may seek a seizure order prior to the filing of a petition for forfeiture.

(c) Where the City Attorney seeks a seizure order, the seizure order shall be sought as soon as practicable, but in no event later than one year from the date of the commission of the act giving rise to the nuisance.

(d) Upon sufficient showing of good cause, the court shall issue the seizure order.

(e) The Riverside Police Department shall serve the seizure order. Upon seizure of the vehicle identified in the seizure order, the Riverside Police Department shall provide a copy of the seizure order to the person from whose possession the vehicle was seized. In the event no one is present at the time of seizure, the Riverside Police Department shall leave a copy of the seizure order at a conspicuous place at the premises where the vehicle was seized.

2. Petition for forfeiture.

(a) The City Attorney shall file a petition for forfeiture within ten business days of the date of seizure. The petition shall make reference to the seizure order and its supporting affidavit/s or declaration/s. A copy of the petition shall be served on the person/s from whom the vehicle was seized and upon all potential claimants known to the City Attorney.

3. Trial.

Upon filing and service of the petition for forfeiture, the judicial forfeiture proceedings shall proceed in accordance with Section 9.30.100 A.2. (Ord. 6780 § 1, 2005, (part); Ord. 6648 § 1, 2003)

### **Section 9.30.110 Exceptions to forfeiture of nuisance vehicles.**

A. Seized vehicles.

1. Notwithstanding the provisions of this chapter, the Riverside Police Department shall return a seized vehicle, and that vehicle shall not be subject to forfeiture, upon the determination of any of the following circumstances:

(a) The vehicle was actually stolen, provided that:

(1) The theft was reported to a law enforcement agency prior to the reporting of the vehicle's use in violation of this chapter to the Riverside Police Department or other City department;

(2) The identity of the registered owner can be reasonably ascertained; and

(3) The registered owner redeems the vehicle within 30 days of the seizure.

(b) The vehicle is owned by a bona fide rental car agency, provided that the vehicle's use in violation of this chapter was made without the agency's knowledge and consent.

(c) The vehicle is owned by the employer of the person who used it in violation of this chapter, provided that:

(1) The use was made without the employer's knowledge and consent;  
(2) The use did not provide a direct benefit to the employer's business; and  
(3) The use did not further or advance the employer's business interests in any way, and the use was of such nature that had the employer known, the use would have resulted in termination or substantial discipline.

(d) The vehicle is legally owned as community property, provided that:

(1) The vehicle is the sole vehicle available to the immediate family of the driver or possessor from whom the vehicle was seized that may be operated with a Class C driver's license;

(2) The community property interest owner, other than the driver or possessor from whom the vehicle was seized, enters into a written, stipulated vehicle release agreement pursuant to § 9.30.110 B as consideration for the non-forfeiture of the vehicle;

(3) The community property interest owner submits written proof of that interest; presents his or her valid driver's license or a valid driver's license for an authorized driver; presents proof of valid registration and insurance; and pays all towing and storage fees, or reimburses the City for any and all towing and/or storage fees incurred; and

(4) The vehicle was not used in a street race that directly resulted in the death or serious injury of any person.

B. Stipulated vehicle release agreement.

1. The City Attorney shall prepare the stipulated vehicle release agreement. The agreement, at a minimum, shall provide for the following:

(a) Consent of the community property interest owner signing the agreement to the automatic future seizure and forfeiture of, and transfer of title to the City, of the vehicle identified in the agreement upon any subsequent use of the vehicle in violation of this chapter;

(b) Seizure pursuant to this section shall be made with a seizure order issued by the Superior Court. The supporting affidavit or declaration shall include a copy of the agreement and a certified copy of this ordinance; and

(c) Any other provision deemed appropriate in the sole discretion of the City Attorney.

2. The City Attorney shall send written notice to the Department of Motor Vehicles, Registration Operations Division, Involuntary Transfer Section within ten business days of the date the vehicle is seized.

C. Vehicles that have not been seized.

Notwithstanding the provisions of this chapter, vehicles subject to seizure and forfeiture that have not been seized, and which otherwise meet the criteria set forth in § 9.30.110 A, shall not be the subject of any seizure order, petition for forfeiture, or forfeiture proceeding. (Ord. 6780 § 1, 2005 (part))

#### **Section 9.30.120 Court declaration of forfeiture of nuisance vehicles.**

A. Upon proof that the vehicle was used for any of the purposes set forth in § 9.30.030, the court shall declare the vehicle a nuisance and order that it be forfeited to the City of Riverside for disposal as set forth in § 9.30.130.

B. If the vehicle which has been declared a nuisance and ordered forfeited to the City is not in the City's possession, the court shall issue a seizure order for the vehicle forthwith. (Ord. 6780 § 1, 2005 (part))

#### **Section 9.30.130 Disposal of nuisance vehicles.**

1. In all cases where vehicles seized pursuant to this chapter are forfeited to the City, the vehicles shall be sold or destroyed. The proceeds of sale shall be distributed and

appropriated as follows:

(a) To the City Attorney's Office to pay costs made or incurred or associated with proceedings instituted under this chapter. These costs shall include, without limitation, the towing; storage and release; sale, including any repairs, transportation or storage necessary to facilitate the sale, of any nuisance vehicle seized and forfeited under this chapter; auction commissions; the costs for publication and mailing of all required notices; where necessary, the costs for translation of required notices and pleadings into a foreign language by a court-certified interpreter. Personnel costs shall not be included.

(b) to the bona fide or innocent purchaser, conditional vendor, mortgagee or lien holder of the vehicle, if any, up to the amount of his or her interest in the vehicle only, when the court or City Attorney declaring the forfeiture orders a distribution to that person.

2. Any remaining funds shall be distributed as follows:

(a) For cases involving illegal dumping:

(1) Fifty percent (50%) to the City of Riverside Public Works Department, to be maintained in a separate fund for illegal dumping abatement;

(2) Twenty-five percent (25%) to local law enforcement or governmental entities that participated in the seizure distributed so as to reflect the proportionate contribution of each agency; with distribution to the Riverside Police Department to be maintained in a separate fund for nuisance vehicle abatement;

(3) Twenty-five percent (25%) to the City Attorney, to be maintained in a separate fund for nuisance vehicle abatement.

(b) For all other cases arising under this chapter:

(1) Fifty percent (50%) to local law enforcement or governmental entities that participated in the seizure distributed so as to reflect the proportionate contribution of each agency; with distribution to the Riverside Police Department to be maintained in a separate fund for nuisance vehicle abatement;

(2) Fifty percent (50%) to the City Attorney, to be maintained in a separate fund for nuisance vehicle abatement.

3. In the event the condition of the vehicle is such that it is not suitable for sale at a public auction, or the cost of sale exceeds its fair market value, it may be sold for scrap.

4. A vehicle may be destroyed only if the vehicle has been modified in ways that make its sale impracticable, or the condition of the vehicle warrants destruction, and there are no lien holders or claimants who did not know that the vehicle was used in violation of this chapter.

5. A forfeited vehicle shall not be sold to the person who used or drove the vehicle during the commission of the act giving rise to the nuisance under this chapter.

6. In lieu of forfeiture, a settlement may be negotiated, in which case the proceeds of the settlement shall be distributed in the same manner as a sale.

7. All the funds distributed to the City of Riverside Public Works Department, to local law enforcement or governmental entities or to the City Attorney pursuant to this section shall not supplant any funds that would, in the absence of this section, be made available to support their abatement efforts, procedures, or programs.

8. For budgeting purposes, funds attributable to this ordinance shall not be considered anticipated revenue into the general fund. (Ord. 6780 § 1, 2005 (part))

#### **Section 9.30.140 Recovery of monetary loss.**

Nothing in this chapter shall preclude an owner of a nuisance vehicle subject to seizure and forfeiture who suffers a monetary loss from the forfeiture of a vehicle under this chapter from recovering the amount of the actual monetary loss from the person who committed the act giving rise to the nuisance that resulted in the forfeiture. (Ord. 6780 § 1, 2005, (part))

## **Chapter 9.31**

### **SPECTATORS PROHIBITED AT ILLEGAL SPEED CONTESTS OR EXHIBITIONS OF SPEED**

#### **Sections:**

- 9.31.010 Statement of purpose and intent.**
- 9.31.020 Definitions.**
- 9.31.030 Violation.**
- 9.31.040 Relevant circumstances to prove a violation.**
- 9.31.050 Admissibility of prior acts.**

#### **Section 9.31.010 Statement of purpose and intent.**

The Council for the City of Riverside finds and declares that pursuant to California Vehicle Code Section 23109, motor vehicle speed contests and exhibitions of speed conducted on public streets and highways are illegal. Motor vehicle speed contests and exhibitions of speed are more commonly known as street races or drag races.

Streets within the City of Riverside have been the site of continuing and escalating illegal street racing over the past several years. Such street racing threatens the health and safety of the public, interferes with pedestrian and vehicular traffic, creates a public nuisance, and interferes with the right of private business owners to enjoy the use of their property within the City of Riverside. The illegal street races occur on a regular basis on various streets within the City. Hundreds of racers and spectators gather on these streets late at night and in the early morning hours, blocking the streets and sidewalks to traffic, forming a racetrack area, placing bets, and otherwise encouraging, aiding, and abetting the racing process.

Illegal street racers accelerate to high speeds without regard to oncoming traffic, pedestrians, or vehicles parked or moving nearby. The racers drive quickly from street to street, race for several hours, and then move to other locations upon the arrival of the police. Those who participate in this illegal activity are very sophisticated, using cell phones, police scanners, and other electronic devices to communicate with each other to avoid arrest. They also use the Internet to provide information on where to race, and give advice on how to avoid detection and prosecution. Traffic accidents, property crimes, and calls for police service have increased dramatically.

In most cases, illegal street races attract hundreds of spectators. The mere presence of spectators at these events fuels the illegal street racing and creates an environment in which these illegal activities can flourish. This section makes evidence of specified prior acts admissible to show the propensity of the defendant to be present at or attend illegal street races, if the prior act or acts occurred within three years of the presently charged offense. This section is adopted to prohibit spectators at illegal street races with the aim of significantly curbing this criminal activity. The section targets a very clear, limited population and gives proper notice to citizens as to what activities are lawful and what activities are unlawful. In discouraging spectators, the act of organizing and participating in illegal street races will be discouraged. (Ord. 6779 §1, 2005(part))

#### **Section 9.31.020 Definitions.**

"City" shall mean the City of Riverside.

"City Attorney" shall mean the City Attorney of the City of Riverside or that person's designated Supervising Deputy City Attorney or Deputy City Attorney.

"Exhibition of speed" shall mean either any exhibition of speed referred to in California Vehicle Code Section 23109(c), or a willful act of showing off or displaying a dangerous or

imprudent speed in a vehicle on a public street or highway where the presence of another person is known to the driver or may be reasonably anticipated by the driver. In order to constitute an exhibition of speed under this alternative definition, there must be a least two spectators present at the event.

"Motor vehicle" shall mean a motor vehicle as that term is defined in California Vehicle Code Section 415.

"Preparations" for a speed contest or exhibition of speed include, but are not limited to, situations in which:

(1) A group of motor vehicles or individuals has arrived at a location for the purpose of participating in or being spectators at the event;

(2) A group of individuals has lined one or both sides of a public street or highway for the purpose of participating in or being a spectator at the event;

(3) A group of individuals has gathered on private property open to the general public without the consent of the owner, operator, or agent thereof for the purpose of participating in or being a spectator at the event;

(4) One or more individuals has impeded the free public use of a public street or highway by actions, words, or physical barriers for the purpose of conducting the event;

(5) Two or more vehicles have lined up with motors running for a speed contest or exhibition of speed;

(6) One or more drivers is revving his engine or spinning his tires in preparation for the event; or;

(7) An individual is stationed at or near one or more motor vehicles serving as a race starter.

"Spectator" means any individual who is present at a speed contest or exhibition of speed, or at a location where preparations are being made for such activities, for the purpose of viewing, observing, watching, or witnessing the event as it progresses. Spectator includes any individual at the location of the event without regard to whether the individual arrived at the event by driving a vehicle, riding as a passenger in a vehicle, walking, or arriving by some other means.

"Speed contest" shall mean either any speed contest referred to in California Vehicle Code Section 23109(a), or a contest or event where a vehicle is raced on a public street or highway against another vehicle, a clock, or other timing device. In order to constitute a speed contest under this alternative definition, at least two vehicles must be assembled or a least two spectators must be present at the event. An event where the time to cover a prescribed route of more than 20 miles is measured, but where the vehicle does not exceed the speed limit is not a speed contest.

"Vehicle" shall mean a vehicle as that term is defined in California Vehicle Code Section 670. (Ord. 6779 §1, 2005 (part))

### **Section 9.31.030 Violation.**

(a) Any individual who is knowingly present as a spectator, either on a public street or highway, or on private property open to the general public without the consent of the owner, operator, or agent thereof, at a speed contest or exhibition of speed is guilty of an infraction for the first and second offense, and a misdemeanor for the third offense and for each subsequent offense thereafter; to be charged and prosecuted by the City Attorney, subject to the discretionary authority provided under Section 1.01.110 of the Riverside Municipal Code.

(b) Any individual who is knowingly present as a spectator, either on a public street or highway, or on private property open to the general public without the consent of the owner, operator, or agent thereof, where preparations are being made for a speed contest or exhibition of speed is guilty of an infraction for the first and second offense, and a misdemeanor for the

third offense and for each subsequent offense thereafter; to be charged and prosecuted by the City Attorney, subject to the discretionary authority provided under Section 1.01.110 of the Riverside Municipal Code.

(c) An individual is present at a speed contest or exhibition of speed if that individual is within 200 feet of the location of the event, or within 200 feet of the location where preparations are being made for the event.

(d) Exemption: Nothing in this section prohibits law enforcement officers or their agents from being spectators at speed contests or exhibitions of speed in the course of their official duties. (Ord. 6779 § 1, 2005 (part))

#### **Section 9.31.040 Relevant circumstances to prove a violation.**

Notwithstanding any other provision of law, to prove a violation of Chapter 9.31, admissible evidence may include, but is not limited to, any of the following:

- (a) the time of day;
- (b) the nature and description of the scene;
- (c) the number of people at the scene;
- (d) the location of the individual charged in relation to any individual or group present at the scene;
- (e) the number and description of motor vehicles or other vehicles at the scene;
- (f) that the individual charged drove or was transported to the scene;
- (g) that the individual charged has previously participated in a speed contest or exhibition of speed;
- (h) that the individual charged has previously aided and abetted a speed contest or exhibition of speed;
- (i) that the individual charged has previously attended a speed contest or exhibition of speed;
- (j) that the individual charged previously was present at a location where preparations were being made for a speed contest or exhibition of speed or where an exhibition of speed or speed contest was in progress. (Ord. 6779 § 1, 2005 (part))

#### **Section 9.31.050 Admissibility of prior acts.**

The list of circumstances set forth in Section 9.31.040 is not exclusive. Notwithstanding California Evidence Code Section 1101(a), evidence of prior acts may be admissible to show the propensity of the defendant to be present at or attend a speed contest or exhibition of speed, if the prior act or acts occurred within three years of the presently charged offense. These prior acts may always be admissible to show knowledge on the part of the defendant that a speed contest or exhibition of speed was taking place at the time of the presently charged offense. Further, these prior acts may always be admissible to prove some fact relating to motive, opportunity, intent, preparation, plan, identity, or absence of mistake or accident, as otherwise provided by Evidence Code Section 1101(b); when relevant to the offense charged. Prior acts are not limited to those that occurred within the City of Riverside. (Ord. 6779 § 1, 2005 (part))

## **Chapter 9.32**

### **OFF-ROAD USE OF MOTOR VEHICLES**

#### **Sections:**

<b>9.32.010</b>	<b>Scope.</b>
<b>9.32.020</b>	<b>Definitions.</b>
<b>9.32.030</b>	<b>Prohibited operations.</b>
<b>9.32.040</b>	<b>Permits.</b>
<b>9.32.050</b>	<b>Operation by permit.</b>
<b>9.32.060</b>	<b>Appeal.</b>
<b>9.32.070</b>	<b>Violations.</b>
<b>9.32.080</b>	<b>Separability.</b>
<b>9.32.090</b>	<b>Exemptions.</b>

#### **Section 9.32.010      Scope.**

This Chapter is designed to regulate the operation of registered and unregistered motorcycles and motor-driven cycles by all persons, whether they possess a valid California Motor Vehicles operator's license or not, upon unimproved private property and upon all public property except highways, in the City; and to prohibit any motor vehicles on unimproved private property or unimproved public property without written permission of the owner thereof subject to certain specific exceptions. (Ord. 5320 § 2, 1985; Ord. 3802 § 1 (part), 1971; Ord. 3777 § 1 (part), 1970)

#### **Section 9.32.020      Definitions.**

Unless it is apparent from the context that another meaning is intended, the following words and phrases when used herein shall have the meaning ascribed to them by this section:

"Highway" means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. "Highway" includes street.

"Mini-bike" means any motorcycle with a motor which produces not more than seven horsepower, with a maximum outside wheel height of twenty-one inches, and which has an exhaust system equipped with a muffler as defined by the California Vehicle Code and a spark arrester as defined in Section 4442 of the California Public Resources Code.

"Motorcycle" means any motor vehicle other than a tractor having a seat or saddle for the use of the rider and designated to travel on not more than three wheels in contact with the ground and weighing less than one thousand five hundred pounds.

"Motor-driven cycle" means any motorcycle, including every motor scooter, with a motor which produces not to exceed fifteen gross brake horsepower, and every bicycle with motor attached.

"Unimproved private property" means any parcel of land which either contains no structures or which is not surfaced with cement, concrete, asphaltic concrete, or other similar material, or which does not have a hard surface made up of a mixture of rock, sand or gravel bound together with a chemical or mineral substance other than natural soil.

"Unimproved public property" means any parcel of land owned by a public entity which either contains no structures or which is not surfaced with cement, concrete, asphaltic concrete, or other similar material, or which does not have a hard surface made up of a mixture of rock, sand or gravel bound together with a chemical or mineral substance other than natural soil. (Ord. 5320 § 3, 1985; Ord. 3834 § 1, 1971; Ord. 3802 § 1 (part), 1971; Ord. 3777 § 1 (part),



1970)

**Section 9.32.030 Prohibited operations.**

A. No person shall drive a motor vehicle on any unimproved private property belonging to or occupied by another or upon any unimproved public property without having in his or her immediate possession and, upon request of a peace officer, displaying written permission to be on such lands from the owner thereof, from the owner's agent, or from the person in lawful possession thereof; but this subsection shall not apply to a person having lawful business with the owner.

B. No person shall park a motor vehicle on any unimproved private property belonging to or occupied by another or upon any unimproved public property without displaying in such a manner as to be seen through the front windshield by any person outside of such vehicle, written permission to be on such lands from the owner thereof, from the owner's agent, or from the person in lawful possession; but this subsection shall not apply to a person having lawful business with the owner.

C. No person shall operate a motorcycle or motor-driven cycle other than a publicly owned motorcycle or motor-driven cycle, upon any public or recreational area or upon any other publicly owned property, except highways, within the City. This shall not be construed to prohibit the operation of a motorcycle or motor-driven cycle having a valid California vehicle registration by any person possessing a valid California operator's license upon the public highways in the City.

D. In addition to the requirements of Subsections A and B of this section, no person shall operate a motorcycle or motor-driven cycle, other than a publicly owned motorcycle or motor-driven cycle, upon any unimproved private property within the City, except as set forth in Section 9.32.040. (Ord. 5320 § 4, 1985; Ord. 3802 § 1 (part), 1971; Ord. 3777 § 1 (part), 1970)

**Section 9.32.040 Permits.**

Any person desiring to operate a motorcycle or motor-driven cycle, and any owner of private property desiring to allow a person or persons to operate a motorcycle or motor-driven cycle on said person's private property may do so upon first obtaining a permit from the Chief of Police of the City. Permits shall be issued upon determination of the Chief of Police that the owner or owners of said real property concerned, or the person or persons in lawful possession thereof, have consented in writing to the proposed operation, and that the proposed operation will not create any undue fire hazard by reasons of the nature of the vehicle and its proposed operation or by reason of the nature of the property concerned, and that such operation is of sufficient distance from occupied residences, churches, assembly halls or schools as to likely not constitute a noise, dust or fumes nuisance. (Ord. 5320 § 5, 1985; Ord. 3802 § 1 (part), 1971; Ord. 3777 § 1 (part), 1970)

**Section 9.32.050 Operation by permit.**

The operation of any motorcycle or motor-driven cycle on unimproved private property by authority of a permit issued in accordance with the provisions of Section 9.32.040 shall be limited to the hours commencing one-half hour after sunrise and ending one-half hour after sunset. The operation of said vehicles shall not be permitted nearer than two thousand feet to any residential structure, church, assembly hall or school. Each permit so issued shall specify the area or areas of permitted operation. The permit shall be displayed on the vehicle at all times and shall be presented to any peace officer on request. The permit is not, and shall so state on its face, an expression by the City that such proposed operation can be done with safety to the operator or other persons or property, all of which said risks are assumed by the permittee or property owners. (Ord. 3802 § 1 (part), 1971; Ord. 3777 § 1 (part), 1970)

**Section 9.32.060      Appeal.**

Any person whose application for a permit under Section 9.32.040 is denied may appeal such decision to the City Council by filing a written notice of appeal within ten days after notification by the Chief of Police that said permit has been denied. The City Council shall thereupon conduct a hearing on said appeal within thirty days from the date of filing said notice of appeal with the City Clerk. The decision of the City Council shall be final and conclusive upon all persons concerned. (Ord. 5320 § 6, 1985; Ord. 3802 § 1 (part), 1971; Ord. 3777 § 1 (part), 1970)

**Section 9.32.070      Violations.**

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor. (Ord. 3802 § 1 (part), 1971; Ord. 3777 § 1 (part), 1970)

**Section 9.32.080      Separability.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the chapter. The City Council declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional. (Ord. 3802 § 1 (part), 1971; Ord. 3777 § 1 (part), 1970)

**Section 9.32.090      Exemptions.**

A. The provisions of this chapter shall not apply on public or private lands expressly set apart for the use of motor vehicles by or with the permission of the owner of such lands pursuant to any zoning permit or other permit or licensing procedure authorized by law.

B. The requirements of Section 9.32.040 of this chapter shall not apply to mini-bikes as defined herein.

C. The provisions of this chapter shall not apply to the use of farm vehicles for agricultural purposes, vehicles being used for grading or construction purposes, vehicles being used for governmental purposes, or golf carts being used on golf courses.

D. The provisions of this chapter shall not apply upon any public highway, street, road or alley within the City. (Ord. 5320 § 7, 1985; Ord. 3834 § 2, 1971; Ord. 3802 § 1 (part), 1971; Ord. 3796 § 1, 1971; Ord. 3777 § 1 (part), 1970)

## **Chapter 9.36**

### **INDECENT EXPOSURE**

#### **Sections:**

<b>9.36.010</b>	<b>Legislative authorization.</b>
<b>9.36.020</b>	<b>Exposure by waiters, waitresses and entertainers.</b>
<b>9.36.030</b>	<b>Exposure by performers in public.</b>
<b>9.36.040</b>	<b>Counseling or assisting.</b>
<b>9.36.050</b>	<b>Exemption of theatrical establishments.</b>
<b>9.36.060</b>	<b>Penalty.</b>
<b>9.36.070</b>	<b>Severability.</b>

#### **Section 9.36.010 Legislative authorization.**

This chapter is adopted pursuant to Sections 318.5 and 318.6 of the Penal Code. All words used in this chapter which also are used in Sections 318.5 and 318.6 of the Penal Code are used in the same sense and mean the same as the same respective words used in Sections 318.5 and 318.6. (Ord. 4536 § 1 (part), 1978)

#### **Section 9.36.020 Exposure by waiters, waitresses and entertainers.**

A. No person shall, while acting as a waiter, waitress or entertainer in an establishment which serves food, beverages, or food and beverages including, but not limited to, alcoholic beverages, for consumption on the premises of such establishment:

1. Expose his or her genitals, pubic hair, buttocks, natal cleft, perineum, anal region or pubic hair region; or
2. Expose any device, costume or covering, which gives the appearance of or simulates the genitals, pubic hair, buttocks, natal cleft, perineum, anal region or pubic hair region; or
3. Expose any portion of the female breast at or below the areola thereof.

B. A person shall be deemed to be a waiter, waitress or entertainer if such person acts in that capacity without regard to whether or not such person is paid any compensation by the management of the establishment in which the activity is performed. (Ord. 4536 § 1 (part), 1978)

#### **Section 9.36.030 Exposure by performers in public.**

No person shall, while participating in any live act, demonstration, or exhibition in any public place, place open to the public, or place open to public view:

1. Expose his or her genitals, pubic hair, buttocks, natal cleft, perineum, anal region, or pubic hair region; or
2. Expose any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, natal cleft, perineum, anal region or pubic hair region; or
3. Expose any portion of the female breast at or below the areola thereof. (Ord. 4536 § 1 (part), 1978)

#### **Section 9.36.040 Counseling or assisting.**

No person shall cause, permit, procure, counsel or assist any person to expose or simulate exposure as prohibited in Sections 9.36.020 and 9.36.030 of this chapter. (Ord. 4536 § 1 (part), 1978)

**Section 9.36.050      Exemption of theatrical establishments.**

The provisions of this chapter shall not apply to a theater, concert hall, or similar establishment which is primarily devoted to theatrical performances. (Ord. 4536 § 1, (part), 1978)

**Section 9.36.060      Penalty.**

A violation of any provision of this chapter shall be deemed a misdemeanor and shall be punishable in accordance with the provisions of Section 1.01.110. (Ord. 5258 § 9, 1985; Ord. 4536 § 1 (part), 1978)

**Section 9.36.070      Severability.**

If any provision or clause of this chapter or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this chapter which can be implemented without the invalid provision, clause or application and to this end the provisions and clauses of this chapter are declared to be severable. (Ord. 4536 § 1 (part), 1978)

## **Chapter 9.40**

### **ADULT-ORIENTED BUSINESSES**

#### **Sections:**

- 9.40.010** Legislative purpose.
- 9.40.020** Definitions.
- 9.40.030** Permits required - Prohibitions.
- 9.40.040** Adult-oriented business regulatory permit required.
- 9.40.050** Applications.
- 9.40.060** Investigation and action on application for business regulatory permit.
- 9.40.070** Permit denial.
- 9.40.080** Transfer of adult-oriented business regulatory permits.
- 9.40.090** Adult-oriented business performer permit.
- 9.40.100** Investigation and action on application for performer permit.
- 9.40.110** Suspension or revocation of adult-oriented business regulatory permits and adult-oriented business performer permits.
- 9.40.120** Appeal of denial. Suspension or revocation. Administrative appeal to the Public Safety Standing Committee. Expedited review of free speech claim. Automatic stay of enforcement.
- 9.40.130** Adult-Oriented business development and performance standards.
- 9.40.140** Register and permit number of employees.
- 9.40.150** Employment of and services rendered to persons under the age of eighteen (18) years prohibited.
- 9.40.160** Inspection.
- 9.40.170** Regulations nonexclusive.
- 9.40.180** Employment of persons without permits unlawful.
- 9.40.185** Public Nuisance.
- 9.40.190** Time limit for filing application for permit.
- 9.40.200** Severability.

#### **Section 9.40.010 Legislative purpose.**

It is the purpose of this ordinance to regulate Adult-Oriented Businesses in order to promote the health, safety, morals, and general welfare of the citizens of the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction in the content of any communicative materials, including adult-oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to adult-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material, nor to circumvent the enforcement of California Penal Code Section 313 relating to the distribution or exhibition of harmful matter to minors. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.020 Definitions.**

For the purpose of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

- A. Adult-Oriented Business. "Adult-Oriented Businesses" means any one of the

following:

1. Adult arcade. The term "adult arcade" as used in this chapter, is an establishment where, for any form of consideration, one or more still or motion picture projectors, or similar machines, for viewing by five (5) or fewer persons each, are used to show films, computer generated images, motion pictures, video cassettes, slides or other photographic reproductions thirty (30) percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

2. Adult bookstore. The term "adult bookstore" as used in this chapter, is an establishment that has thirty (30) percent or more of its stock in books, magazines, periodicals or other printed matter, or of photographs, films, motion pictures, video cassettes, slides, tapes, records or other form of visual or audio representations which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities and/or specified anatomical areas.

3. Adult cabaret. The term "adult cabaret" as used in this chapter, means a nightclub, restaurant, or similar business establishment which: (1) regularly features live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities; and/or (2) which regularly features persons who appear semi-nude; and/or (3) shows films, computer generated images, motion pictures, video cassettes, slides, or other photographic reproductions thirty (30) percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

4. Adult hotel/motel. The term "adult hotel/motel" as used in this chapter, means a hotel or motel or similar business establishment offering public accommodations for any form of consideration which, (1) provides patrons with closed-circuit television transmissions, films, computer generated images, motion pictures, video cassettes, slides, or other photographic reproductions thirty (30) percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; and (2) rents, leases, or lets any room for less than a six (6) hour period, or rents, leases, or lets any single room more than twice in a 24-hour period.

5. Adult motion picture theater. The term "adult motion picture theater" as used in this chapter, is a business establishment where, for any form of consideration, films, computer generated images, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and thirty (30) percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

6. Adult theater. The term "adult theater" as used in this chapter, means a theater, concert hall, auditorium, or similar establishment which, for any form of consideration regularly features live performances which are distinguished or characterized by an emphasis on the display of specified anatomical areas or specified sexual activities.

7. Modeling studio. The term "modeling studio" as used in this chapter, means a business which provides, for pecuniary compensation, monetary or other consideration, hire or reward, figure models who, for the purposes of sexual stimulation of patrons, display "specified anatomical areas" to be observed, sketched, photographed, painted, sculpted or otherwise depicted by persons paying such consideration. "Modeling studio" does not include schools maintained pursuant to standards set by the State Board of Education. "Modeling studio" further does not include a studio or similar facility owned, operated, or maintained by an individual artist or group of artists, and which does not provide, permit, or make available "specified sexual activities."

B. Adult-Oriented Business Operator. "Adult-Oriented Business Operator" (hereinafter "operator") means a person who supervises, manages, inspects, directs, organizes, controls or

in any other way is responsible for or in charge of the premises of an Adult-Oriented Business or the conduct or activities occurring on the premises thereof.

C. Applicant. A person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of an Adult-Oriented Business.

D. Bar. For the purposes of this ordinance [chapter], a bar is defined as any commercial establishment licensed by the State Department of Alcohol Beverage Control to serve any alcohol beverages on the premises.

E. Distinguished or characterized by an emphasis upon. As used in this ordinance, the term "distinguished or characterized by an emphasis upon" shall mean and refer to the dominant or essential theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon" the depiction or description of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or predominant character and theme are the depiction of the enumerated sexual activities or anatomical areas. See Pringle v. City of Covina, 115 Cal.App.3 151 (1981).

F. Figure model. "Figure model" means any person who, for pecuniary compensation, consideration, hire or reward, poses in a modeling studio to be observed, sketched, painted, drawn, sculptured, photographed or otherwise depicted.

G. Health Officer. "Health Officer" means any Code Compliance Officer of the City of Riverside or his or her duly authorized representative.

H. Nudity or a state of nudity. "Nudity or a state of nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state.

I. Operate an Adult-Oriented Business. As used in this article "operate an Adult-Oriented Business" means the supervising, managing, inspecting, directing, organizing, controlling or in any way being responsible for or in charge of the conduct of activities of an Adult-Oriented Business or activities within an Adult-Oriented Business.

J. Permittee. "Permittee" means the person to whom an Adult-Oriented Business Permit is issued.

K. Person. Any individual, partnership, copartnership, firm, association, joint stock company, corporation, or combination of the above in whatever form or character.

L. Police Chief. The Police Chief of the City of Riverside or the authorized representative thereof.

M. Regularly Features. The term "regularly features" with respect to an adult theater or adult cabaret means a regular and substantial course of conduct. The fact that live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities occurs on two (2) or more occasions within a thirty (30) calendar day period; three (3) or more occasions within a sixty (60) calendar day period; or four (4) or more occasions within a one hundred and eighty (180) calendar day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct.

N. Semi-nude. Means a state of dress in which clothing covers no more than the genitals, pubic region, buttocks, areola of the female breast, as well as portions of the body covered by supporting straps or devices.

O. Specified anatomical areas. As used herein, "specified anatomical areas" shall mean and include any of the following:

1. Less than completely and opaquely covered human (i) genitals or pubic region; (ii) buttocks; and (iii) female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely

covered.

3. Any device, costume or covering that simulates any of the body parts included in subdivisions (1) or (2) above.

P. Specified sexual activities. As used herein, "specified sexual activities" shall mean and include any of the following, whether performed directly or indirectly through clothing or other covering:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breast;

2. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;

3. Masturbation, actual or simulated;

4. Excretory functions as part of or in connection with any of the other activities described in subdivision (1) through (3) of this subsection. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.030 Permits required - Prohibitions.**

A. It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City of Riverside, the operation of an Adult-Oriented Business unless the person first obtains and continues to maintain in full force and effect a permit from the City of Riverside as herein required. (Adult-Oriented Business Regulatory Permit)

B. It shall be unlawful for any persons to engage in or participate in any live performance depicting specified anatomical areas or involving specified sexual activities in an Adult-Oriented Business unless the person first obtains and continues in full force and effect a permit from the City of Riverside as herein required. (Adult-Oriented Business Performer Permit) (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.040 Adult-oriented business regulatory permit required.**

A. Every person who proposes to maintain, operate or conduct an Adult-Oriented Business in the City of Riverside shall file an application with the Police Chief upon a form provided by the City of Riverside and shall pay a filing fee, as established by resolution adopted by the City Council from time to time, which shall not be refundable. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.050 Applications.**

A. Adult-Oriented Business Regulatory Permits are nontransferable, except in accordance with Section 9.40.080. Therefore, all applications shall include the following information:

1. If the applicant is an individual, the individual shall state his or her legal name, including any aliases, address, and submit satisfactory written proof that he or she is at least eighteen (18) years of age.

2. If the applicant is a partnership, the partners shall state the partnership's complete name, address, the names of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement, if any.

3. If the applicant is a corporation, the corporation shall provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of California, the names and capacity of all officers and directors, the name of the registered corporate agent and the address of the registered office for service of process.

B. If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, an officer of the business entity or an individual with a ten (10) percent or greater interest in the business entity shall sign the application.



C. If the applicant intends to operate the Adult-Oriented Business under a name other than that of the applicant, the applicant shall file the fictitious name of the Adult-Oriented Business and show proof of registration of the fictitious name.

D. A description of the type of Adult-Oriented Business for which the permit is requested and the proposed address where the Adult-Oriented Business will operate, plus the names and addresses of the owner and lessors of the Adult-Oriented Business site.

E. The address to which notice of action on the application is to be mailed.

F. The names of all employees, agents, partners, directors, officers, shareholders, managers, and persons who will perform at the Adult-Oriented Business, who are required by Section 9.40.090 to obtain an Adult-Oriented Business Performer License (for ongoing reporting requirements see Section 9.40.090).

G. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the Adult-Oriented Business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

H. 1. A certificate and straight-line drawing prepared within thirty calendar days prior to application depicting the building the building and the portion thereof to be occupied by the Adult-Oriented Business.

2. The certificate and straight-line drawing shall also depict the following:

a. The property line within five hundred (500) feet of any other Adult-Oriented Business as measured from any point between the outside walls of the buildings or building lease spaces containing the business.

b. The property line within five hundred (500) feet of any existing residential zone as measured from any point upon the outside walls of the building or building lease space containing the business to the nearest property line of the residentially zoned property.

c. The property line within one hundred (100) feet of any school or day care center as measured from any point upon the outside walls of the building or building lease space containing the business to the nearest property line of the school or day care center.

d. The property line within five hundred (500) feet of any existing church or park as measured from any point upon the outside walls of the building or building lease space containing the business to the nearest property line of the church or park site.

I. A diagram of the off-street parking areas and premises entries of the Adult-Oriented Business showing the location of the lighting system required by Section 9.40.130.

J. If the Police Chief determines that the applicant has completed the application improperly, the Police Chief shall promptly notify the applicant of such fact and, on request of the applicant, grant the applicant an extension of time of ten (10) calendar days or less to complete the application properly. In addition, the applicant may request an extension, not to exceed ten (10) calendar days, of the time for the Police Chief to act on the application. The time period for granting or denying a Permit shall be stayed during the period in which the applicant is granted an extension of time.

K. The fact that an applicant possesses other types of state or city permits or licenses does not exempt the applicant from the requirement of obtaining an Adult-Oriented Business Regulatory Permit. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.060 Investigation and action on application for business regulatory permit.**

A. Upon receipt of a completed application and payment of the application and Permit fees, the Police Chief shall immediately stamp the application as received and promptly investigate the information contained in the application to determine whether the applicant shall

be issued an Adult-Oriented Business Regulatory Permit.

B. Within ten (10) business days of receipt of the completed application, the Police Chief shall issue a temporary forty-five day (45) permit, complete the investigation, grant or deny the annual permit within forty-five (45) calendar days in accordance with the provisions of this Section, and so notify the applicant as follows:

1. The Police Chief shall write or stamp "Granted" or "Denied" on the application and date and sign such notation.

2. If the application is denied, the Police Chief shall attach to the application a statement of the reasons for denial.

3. If the application is granted, the Police Chief shall attach to the application an Adult-Oriented Business Regulatory Permit.

4. The application as granted or denied and the Permit, if any, shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the address stated in the application.

C. The Police Chief shall grant the application and issue the Adult-Oriented Business Regulatory Permit upon findings that the proposed business meets the locational criteria of Chapter 19.61 of Title 19; and that the applicant has met all of the development and performance standards and requirements of Section 9.40.130, unless the application is denied for one or more of the reasons set forth in Section 9.40.070. The Permittee shall post the Permit conspicuously in the Adult-Oriented Business premises.

D. If the Police Chief grants the application or if the Police Chief neither grants nor denies the application within forty-five (45) calendar days after it is stamped as received (except as provided in Section 9.40.050 (j)), the application is deemed to be granted and the applicant may begin operating the Adult-Oriented Business for which the Permit was sought, subject to strict compliance with the development and performance standards and requirements of Section 9.40.130. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.070 Permit denial.**

The Police Chief shall deny the application for any of the following reasons:

A. The building, structure, equipment, or location used by the business for which an Adult-Oriented Business Regulatory Permit is required do not comply with the requirements and standards of the health, zoning, fire and safety laws of the City and the State of California, or with the locational or development and performance standards and requirements of these regulations.

B. The applicant, his or her employee, agent, partner, director, officer, shareholder or manager has knowingly made any false, misleading or fraudulent statement of material fact in the application for an Adult Business Regulatory Permit.

C. An applicant is under eighteen (18) years of age.

D. The required application fee has not been paid.

E. The Adult-Oriented Business does not comply with the zoning ordinance locational standards, Chapter 19.61 of Title 19.

F. The applicant or his or her agent, partner, director, officer, shareholder or manager has, within the previous twelve (12) month period, had a permit for an Adult-Oriented Business denied or revoked or is applying for a new permit within the period in which the existing permit has been suspended.

G. The applicant, his or her employee, agent, partner, director, officer, shareholder or manager has been convicted of any of the offenses set forth in Section 313, 315, 316, 266(a), 266(b), 266(c), 266(e), 266(f), 266(h), 266(i), 647(a), 647(b) and 674(d) of the California Penal Code as those sections now exist or may hereafter be amended or renumbered.

(1) For which: less than two (2) years have elapsed since the date of the conviction or

the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is a misdemeanor offense; less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or a combination of misdemeanor offenses occurring within a twenty-four (24) month period.

Each Adult-Oriented Business Regulatory Permit shall expire one (1) year from the date of issuance, and may be renewed only by filing with the Police Chief a written request for renewal, accompanied by the Annual Permit Fee and a copy of the Permit to be renewed. The request for renewal shall be made at least forty-five (45) calendar days before the expiration date of the Permit. When made less than forty-five (45) calendar days before the expiration date, the expiration of the Permit will not be stayed. Applications for renewal shall be acted on as provided herein for action upon applications for Permits. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.080      Transfer of adult-oriented business regulatory permits.**

A. A permittee shall not operate an Adult-Oriented Business under the authority of an Adult-Oriented Business Regulatory Permit at any place other than the address of the Adult-Oriented Business stated in the application for the Permit.

B. A permittee shall not transfer ownership or control of an Adult-Oriented Business or transfer an Adult-Oriented Business Regulatory Permit to another person unless and until the transferee obtains an amendment to the Permit from the Police Chief stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the Police Chief in accordance with Sections 9.40.040 and 9.40.050, accompanies the application with a transfer fee in an amount set by resolution of the City Council, and the Police Chief determines that the transferee would be entitled to the issuance of an original Permit.

C. No permit may be transferred when the Police Chief has notified the permittee that the Permit has been or may be suspended or revoked.

D. Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void, and the Permit shall be deemed revoked. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.090      Adult-oriented business performer permit.**

A. No person shall engage in or participate in any live performance depicting specified anatomical areas or involving specified sexual activities in an Adult-Oriented Business, without a valid Adult-Oriented Business Performer Permit issued by the City. All persons who have been issued an Adult-Oriented Business Regulatory Permit shall promptly supplement the information provided as part of the application for the Permit required by Section 9.40.040, with the names of all Performers required to obtain an Adult-Oriented Business Performer Permit, within thirty (30) calendar days of any change in the information originally submitted. Failure to submit such changes shall be grounds for suspension of the Adult-Oriented Business Regulatory Permit.

B. The Police Chief shall grant, deny and renew Adult-Oriented Business Employee Permits.

C. The application for a Permit shall be made on a form provided by the Police Chief. An original and two (2) copies of the completed and sworn permit application shall be filed with the Police Chief.

D. The completed application shall contain the following information and be accompanied by the following documents:

1. The applicant's legal name and any other names (including "stage names" and aliases) used by the applicant;
  2. Age, date and place of birth;
  3. Height, weight, hair and eye color;
  4. Present residence address and telephone number;
  5. Whether the applicant has ever been convicted of:
    - i. Any of the offenses set forth in Section 313, 315, 316, 266a, 266b, 266c, 266e, 266f, 266h, 266i, 647(a), 647(b) and 647(d) of the California Penal Code as those sections now exist or may hereafter be amended or renumbered.
    - ii. The equivalent of the aforesaid offenses outside the State of California.
    - iii. For which: less than two years have elapsed since the date of the conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is a misdemeanor offense; less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or a combination of misdemeanor offenses occurring within a twenty-four month period.
  6. Whether such person is or has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other jurisdiction to engage in prostitution in such other jurisdiction. If any person mentioned in this subsection has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other state to engage in prostitution, a statement shall be submitted giving the place of such registration, licensing or legal authorization, and the inclusive dates during which such person was so licensed, registered, or authorized to engage in prostitution.
  7. State driver's license or identification number;
  8. Satisfactory written proof that the applicant is at least eighteen (18) years of age;
  9. The applicant's fingerprints on a form provided by the Police Department, and a color photograph clearly showing the applicant's face. Any fees for the photographs and fingerprints shall be paid by the applicant;
  10. If the application is made for the purpose of renewing a License, the applicant shall attach a copy of the License to be renewed.
- E. The completed application shall be accompanied by a non-refundable application fee. The amount of the fee shall be set by resolution of the City Council.
- F. Upon receipt of an application and payment of the application fees, the Police Chief shall immediately stamp the application as received and promptly investigate the application.
- G. If the Police Chief determines that the applicant has completed the application improperly, the Police Chief shall promptly notify the applicant of such fact and grant the applicant an extension of time of not more than ten (10) calendar days to complete the application properly. In addition, the applicant may request an extension, not to exceed ten (10) calendar days, of the time for the Police Chief to act on the application. The time period for granting or denying a Permit shall be stayed during the period in which the applicant is granted an extension of time. (Ord. 6747 § 1, 2004; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.100 Investigation and action on application for performer permit.**

- A. Within ten (10) business days after receipt of the properly completed application, the Police Chief shall issue a forty-five (45) day temporary permit. The Police Chief shall grant or deny the annual permit within forty-five (45) calendar days and so notify the applicant as follows:
1. The Police Chief shall write or stamp "Granted" or "Denied" on the application and date and sign such notation.

2. If the application is denied, the Police Chief shall attach to the application a statement of the reasons for denial.

3. If the application is granted, the Police Chief shall attach to the application an Adult-Oriented Business Employee Permit.

4. The application as granted or denied and the Permit, if any, shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the residence address stated in the application.

B. The Police Chief shall grant the application and issue the Permit unless the application is denied for one (1) or more of the reasons set forth in subsection (d) of this section.

C. If additional time to complete the investigation is needed based on good cause, the Police Chief may take action on the application within an additional ten (10) business days, by giving notice to the applicant in writing before the end of the forty-five (45) calendar day period, with an indication of the additional ten (10) business day time period in which he must act. The temporary permit shall be extended by the same additional ten (10) business days.

D. The Police Chief shall deny the application for any of the following reasons:

1. The applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a Permit or in any report or document required to be filed with the application.

2. The applicant is under eighteen (18) years of age.

3. The Adult-Oriented Business Employee Permit is to be used for performing in a business prohibited by State or City law.

4. The applicant has been registered in any State as a prostitute.

5. The applicant has been convicted of any of the offenses enumerated in Section 9.40.090 (d)(5) or convicted of an offense outside the State of California that would have constituted any of the described offenses if committed within the State of California. A Permit may be issued to any person convicted of the described crimes if the conviction occurred more than five (5) years prior to the date of the application.

6. The applicant or his or her agent, partner, director, officer, shareholder or manager has, within the previous twelve (12) month period, had a permit for an Adult-Oriented Business denied or revoked or is applying for a new permit within the period in which the existing permit has been suspended.

E. Each Adult-Oriented Business Performer Permit shall expire one (1) year from the date of issuance and may be renewed only by filing with the Police Chief a written request for renewal, accompanied by the application fee and a copy of the Permit to be renewed. The request for renewal shall be made at least thirty (30) calendar days before the expiration date of the Permit. When made less than thirty (30) calendar days before the expiration date, the expiration of the Permit will not be stayed. Applications for renewal shall be acted on as provided herein for applications for Permits. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.110      Suspension or revocation of adult-oriented business regulatory permits and adult-oriented business performer permits.**

An Adult-Oriented Business Regulatory Permit or Adult-Oriented Business Employee Permit may be suspended or revoked in accordance with the procedures and standards of this Section.

A. On determining that grounds for Permit revocation exist, the Police Chief shall furnish written notice of the proposed suspension or revocation to the Permittee. Such notice shall set forth the time and place of a hearing, and the ground or grounds upon which the hearing is based, the pertinent Code sections, and a brief statement of the factual matters in support thereof. The notice shall be mailed, postage prepaid, addressed to the last known address of

the Permittee, or shall be delivered to the Permittee personally or to the person effectively in control of the Adult-Oriented Business at the time of delivery, at least ten (10) calendar days prior to the hearing date. Hearings shall be conducted in accordance with procedures established by the Police Chief, but at a minimum shall include the following:

1. All parties involved shall have a right to offer testimonial, documentary, and tangible evidence bearing on the issues; may be represented by counsel; and shall have the right to confront and cross-examine witnesses. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this Section may be continued for a reasonable time for the convenience of a party or a witness. The Police Chief's decision may be appealed in accordance with Section 9.40.120.

B. A Permittee may be subject to suspension or revocation of his Permit, or be subject to other appropriate disciplinary action, for any of the following causes arising from the acts or omissions of the Permittee, or an employee, agent, partner, director, stockholder, or manager of an Adult-Oriented Business:

1. The Permittee has knowingly made any false, misleading or fraudulent statement of material facts in the application for a Permit, or in any report or record required to be filed with the City.

2. The Permittee, employee, agent, partner, director, stockholder, or manager of an Adult-Oriented Business has knowingly allowed or permitted, and has failed to make a reasonable effort to prevent the occurrence of any of the following on the premises of the Adult-Oriented Business, or in the case of an Adult-Oriented Business Performer, the permittee has engaged in one (1) of the activities described below while on the premises of an Adult-Oriented Business:

- i. Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation.
- ii. Use of the establishment as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation, or masturbation openly occur.
- iii. Any conduct constituting a criminal offense which requires registration under Section 290 of the California Penal Code.
- iv. The occurrence of acts of lewdness, assignation, or prostitution, including any conduct constituting violations of Sections 315, 316, or 318 or Subdivision b of Section 647 of the California Penal Code.
- v. Any act constituting a violation of provisions in the California Penal Code relating to obscene matter or distribution of harmful matter to minors, including but not limited to Sections 311 through 313.4.
- vi. Any conduct prohibited by this chapter, including, but not limited to, allowing any person to engage in or participate in any live performance depicting specified anatomical areas or involving specified sexual activities in an Adult-Oriented Business, without a valid performer permit pursuant to Section 9.40.090.

3. Failure to abide by any disciplinary action previously imposed by an appropriate City official.

C. After hold the hearing in accordance with the provisions of this Section, if the Police Chief finds and determines that there are grounds for disciplinary action, based upon the severity of the violation, the Police Chief shall impose one of the following:

1. A warning.
2. Suspension of the Permit for a specified period not to exceed six (6) months.
3. Revocation of the Permit. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

**Section 9.40.120      Appeal of denial. Suspension or revocation. Administrative appeal to the Public Safety Standing Committee. Expedited review of free speech claim. Automatic stay of enforcement.**

A. After denial of an application for an Adult-Oriented Business Regulatory Permit or an Adult-Oriented Business Performer Permit, or after denial of renewal of a Permit, or suspension or revocation of a Permit, the applicant or person to whom the Permit was granted may seek review of such administrative action by the Public Safety Standing Committee of the City of Riverside. An administrative appeal must be filed with the City Clerk within ten (10) calendar days of a denial, suspension or revocation of a Permit. The hearing before the Public Safety Standing Committee shall be held no less than five (5) business days from the date of the filing of the appeal or at the next regularly scheduled meeting of the Public Safety Standing Committee. The Committee shall issue its decision within ten (10) calendar days of the hearing. The decision of the Public Safety Standing Committee shall be final. If the denial, suspension or revocation is affirmed on review, the applicant, permittee may seek expedited judicial review of such administrative action pursuant to California Code of Civil Procedure Section 1094.8 because the permits regulate expressive conduct protected by the First Amendment to the United States Constitution. The petitioner shall be responsible for reimbursing the City for its actual costs for transcribing, copying, or otherwise preparing the administrative record.

B. There shall be an automatic stay of enforcement of a permit suspension or revocation throughout the administrative and/or judicial appeal process. (Ord 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

**Section 9.40.130      Adult-Oriented business development and performance standards.**

A. Maximum occupancy load, fire exits, aisles and fire equipment shall be regulated, designed and provided in accordance with the Fire Department and building regulations and standards adopted by the City of Riverside.

B. At no time shall any Adult-Oriented Business be open for private parties or other similar functions.

C. No Adult-Oriented Business shall be operated in any manner that permits the observation of any material or activities depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" from any public way or from any location outside the building or area of such establishment. This provision shall apply to any display, decoration, sign, show window or other opening. No exterior door or window on the premises shall be propped or kept open at any time while the business is open, and any exterior shall be covered with opaque covering at all times.

D. All off-street parking area and premise entries of the sexually-oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one (1) foot candle of light on the parking surface and/or walkways. The required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually-oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.

E. The premises within which the Adult-Oriented Business is located shall provide sufficient sound-absorbing insulation so that noise generated inside said premises shall not be audible anywhere on any adjacent property or public right-of-way or within any other building or other separate unit within the same building.

F. The building entrance to an Adult-Oriented Business shall be clearly and legibly posted with a notice indicating that persons under eighteen (18) years of age are precluded from entering the premises. Said notice shall be constructed and posted to the satisfaction of

the Community Development Director or designee. No person under the age of eighteen (18) years shall be permitted within the premises at any time.

G. All indoor areas of the Adult-Oriented Business within which patrons are permitted, except rest rooms, shall be open to view by the management at all times.

H. Any adult-oriented business which is also an "adult arcade", shall comply with the following provisions:

1. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations. The view required in this subsection must be direct line of sight from the manager's station.

2. The view area specified in subsection (5) shall remain unobstructed by any doors, walls, merchandise, display racks, or other materials at all times. No patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

3. No viewing room may be occupied by more than one person at any one time.

4. The walls or partitions between viewing rooms or booths shall be maintained in good repair at all times, with no holes between any two such rooms such as would allow viewing from one booth into another or such as to allow physical contact of any kind between the occupants of any two such booths or rooms.

5. Customers, patrons or visitors shall not be allowed to stand idly by in the vicinity of any such video booths, or from remaining in the common area of such business, other than the restrooms, who are not actively engaged in shopping for or reviewing the products available on display for purchaser viewing. Signs prohibiting loitering shall be posted in prominent places in and near the video booths.

6. The floors, seats, walls and other interior portions of all video booths shall be maintained clean and free from waste and bodily secretions. Presence of human excrement, urine, semen or saliva in any such booths shall be evidence of improper maintenance and inadequate sanitary controls; repeated instances of such conditions may justify suspension or revocation of the owner and operator's license to conduct the Adult-Oriented establishment.

I. All areas of the Adult-Oriented Business shall be illuminated at a minimum of the following foot-candles, minimally maintained and evenly distributed at ground level:

<u>Area</u>	<u>Foot-Candles</u>
Bookstore and other retail establishments	20
Theaters and cabarets	5 (except during performances, at which times lighting shall be at least 1.25 foot-candles)
Arcades	10
Motels/Hotels	20 (public areas)
Modeling studios	20



J. The Adult-Oriented Business shall provide and maintain separate restroom facilities for male patrons and employees, and female patrons and employees. Male patrons and employees shall be prohibited from using the restroom(s) for females, and female patrons and employees shall be prohibited from using the restroom(s) for males, except to carry out duties of repair, maintenance and cleaning of the restroom facilities. The restrooms shall be free from any adult material. Restrooms shall not contain television monitors or other motion picture or video projection, recording or reproduction equipment. The foregoing provisions of this paragraph shall not apply to an Adult-Oriented Business which deals exclusively with sale or rental of Adult Material which is not used or consumed on the premises, such as an Adult Bookstore or Adult Video Store, and which does not provide restroom facilities to its patrons or the general public.

K. The following additional requirements shall pertain to Adult-Oriented Businesses providing live entertainment depicting Specified Anatomical Areas or involving Specified Sexual Activities.

1. No person shall perform live entertainment for patrons of an Adult-Oriented Business except upon a stage at least eighteen (18) inches above the level of the floor which is separated by a distance of at least ten (10) feet from the nearest area occupied by patrons, and no patron shall be permitted within ten (10) feet of the stage while the stage is occupied by an entertainer. "Entertainer" shall mean any person who is an employee or independent contractor of the Adult-Oriented Business, or any person who, with or without any compensation or other form of consideration, performs live entertainment for patrons of an Adult-Oriented Business.

2. The Adult-Oriented Business shall provide separate dressing room facilities for entertainers which are exclusively dedicated to the entertainers' use.

3. The Adult-Oriented Business shall provide an entrance/exit for entertainers which is separate from the entrance/exit used by patrons.

4. The Adult-Oriented Business shall provide access for entertainers between the stage and the dressing rooms which is completely separated from the patrons. If such separate access is not physically feasible, the Adult-Oriented Business shall provide a minimum three (3) foot wide walk aisle for entertainers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the entertainers capable of (and which actually results in) preventing any physical contact between patrons and entertainers.

5. No entertainer, either before, during or after performances, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during or after performances by such entertainer. This subsection shall only apply to physical contact on the premises of the Adult-Oriented Business.

6. Fixed rail(s) at least thirty (30) inches in height shall be maintained establishing the separations between entertainers and patrons required by this subsection.

7. No patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any patron.

8. No owner or other person with managerial control over an Adult-Oriented Business (as that term is defined herein) shall permit any person on the premises of the Adult-Oriented Business to engage in a live showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque coverage, and/or the female breast with less than a fully opaque coverage over any part of the nipple or areola and/or covered male genitals in a discernibly turgid state. This provision may not be complied with by applying an opaque covering simulating the appearance of the specified anatomical part required to be covered.

L. Adult-Oriented Businesses shall employ security guards in order to maintain the public peace and safety, based upon the following standards:

1. Adult-Oriented Businesses featuring live entertainment shall provide at least one (1) security guard at all times while the business is open. If the occupancy limit of the premises is greater than (35) thirty-five persons, an additional security guard shall be on duty.

2. Security guards for other Adult-Oriented Businesses may be required if it is determined by the Police Chief that their presence is necessary in order to prevent any of the conduct listed in Section 9.40.110(b) from occurring on the premises.

3. Security guard(s) shall be charged with preventing violations of law and enforcing compliance by patrons of the requirements of these regulations. Security guards shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public and shall be duly licensed as a security guard as required by applicable provisions of state law. No security guard required pursuant to this subsection shall act as a door person, ticket seller, ticket taker, admittance person, or sole occupant of the manager's station while acting as a security guard.

The foregoing applicable requirements of this Section shall be deemed conditions of Adult-Oriented Business Regulatory Permit approvals, and failure to comply with every such requirement shall be grounds for revocation of the Permit issued pursuant to these regulations. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.140 Register and permit number of employees.**

A. Every Adult-Oriented Business shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for such Adult-Oriented Business in a conspicuous place so that the same may be readily seen by all persons entering the Adult-Oriented Business.

B. The Police Chief shall provide each Adult-Oriented Business Performer required to have a permit pursuant to the chapter, with an identification card containing the name, address, photograph and permit number of such performer.

C. An Adult-Oriented Business Performer shall have such card available for inspection at all times during which such person is on the premises of the Adult-Oriented Business. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.150 Employment of and services rendered to persons under the age of eighteen (18) years prohibited.**

A. It shall be unlawful for any permittee, operator, or other person in charge of any Adult-Oriented Business to employ, or provide any service for which it requires such permit, to any person who is not at least eighteen (18) years of age.

B. It shall be unlawful for any permittee, operator or other person in charge of any Adult-Oriented Business to permit to enter, or remain within the Adult-Oriented Business, any person who is not at least eighteen (18) years of age. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.160 Inspection.**

An applicant or Permittee shall permit representatives of the Police Department, Health Department, Fire Department, Planning Division, or other City departments or Agencies to inspect the premises of an Adult-Oriented Business for the purpose of insuring compliance with the law and the development and performance standards applicable to Adult-Oriented Businesses, at any time it is occupied or opened for business. This inspection shall cover the entirety of the premises, including areas not generally open to the public. A person who operates an Adult-Oriented Business or his or her agent or employee is in violation of the provisions of this section if he/she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

**Section 9.40.170 Regulations nonexclusive.**

The provisions of this article regulating Adult-Oriented Businesses are not intended to be exclusive and compliance therewith shall not excuse noncompliance with any other regulations pertaining to the operation of businesses as adopted by the City Council of the City of Riverside. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

**Section 9.40.180 Employment of persons without permits unlawful.**

It shall be unlawful for any owner, operator, manager, or permittee in charge of or in control of an Adult-Oriented Business which provides live entertainment depicting specified anatomical areas or involving specified sexual activities to allow any person to perform such entertainment who is not in possession of a valid, unrevoked Adult-Oriented Business Performer Permit. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

**Section 9.40.185 Public Nuisance.**

In addition to the remedies set forth in this Code, any Adult-Oriented Business that is operating in violation of these provisions regulating Adult Oriented Businesses is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation. (Ord. 6545 § 2, 2000)

**Section 9.40.190 Time limit for filing application for permit.**

All persons who possess an outstanding business license heretofore issued for the operation of an Adult-Oriented Business and all persons required by this chapter to obtain an Adult-Oriented Business Performer Permit must apply for and obtain such a permit within ninety (90) calendar days of the effective date of this chapter. Failure to do so and continued operation of an Adult-Oriented Business, or the continued performances depicting specified anatomical areas or specifies sexual activities in an Adult-Oriented Business after such time without a permit shall constitute a violation of this chapter. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

**Section 9.40.200 Severability.**

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

## **Chapter 9.42**

### **FORTUNETELLING AND OCCULT ARTS**

#### **Sections:**

<b>9.42.010</b>	<b>Definitions.</b>
<b>9.42.015</b>	<b>License required.</b>
<b>9.42.020</b>	<b>Exemptions.</b>
<b>9.42.025</b>	<b>Establishment.</b>
<b>9.42.030</b>	<b>Classification of use.</b>
<b>9.42.035</b>	<b>License application and renewal: fees.</b>
<b>9.42.045</b>	<b>Application contents.</b>
<b>9.42.050</b>	<b>Required information and documents.</b>
<b>9.42.055</b>	<b>Separate license for individuals.</b>
<b>9.42.060</b>	<b>Notification of change.</b>
<b>9.42.065</b>	<b>Investigation.</b>
<b>9.42.070</b>	<b>Refusal to issue license.</b>
<b>9.42.075</b>	<b>Revocation.</b>
<b>9.42.080</b>	<b>Appeal.</b>
<b>9.42.085</b>	<b>Location of establishment.</b>
<b>9.42.090</b>	<b>Hours permitted.</b>
<b>9.42.095</b>	<b>Inspection.</b>
<b>9.42.100</b>	<b>Records.</b>
<b>9.42.105</b>	<b>Display of license.</b>
<b>9.42.110</b>	<b>Compliance and penalty.</b>
<b>9.42.115</b>	<b>Severability.</b>

#### **Section 9.42.010 Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meaning given herein:

"Fortunetelling and occult arts" shall mean telling of fortunes and forecasting of futures by means of any occult, psychic power, faculty, force, clairvoyance, clairsience, cartomancy, psychology, psychometry, numerology, hypnosis, phrenology, spirits, tea leaves or other such reading, mediumship, seership, augury, astrology, palmistry, necromancy, mindreading, telepathy or other craft, art, science, cards, talisman, charm, potion, magnetism, magnetized article or substance, cunning or foresight, crystal gazing, mysteries or magic of any kind or nature;

"Fortuneteller" shall mean any person who advertises by sign, circular, handbill, newspaper, periodical, magazine or other means whatsoever the practice of fortunetelling and/or occult arts, and shall include any person who advertises as a "psychic" or "spiritual reader" or "spiritual counselor" for the purpose of the practice of fortunetelling and/or the occult arts;

"Fee" shall mean for a fee, reward, donation, loan or receipt of anything of value in exchange for the practice of fortunetelling and occult arts;

"Establishment" shall mean the premises, location or place advertised for or purported to be used for the practice of fortunetelling and/or occult arts. (Ord. 5296 § 1, 1985)

**Section 9.42.015 License required.**

No person, association, partnership or corporation shall conduct, operate or advertise for an establishment in which the practice of fortunetelling and occult arts is carried on for pay, compensation or gratuity without obtaining and maintaining in effect a license as required by this chapter.

No licensee hereunder shall employ any person who practices fortunetelling and/or occult arts, or who offers to or solicits to perform fortunetelling and occult arts, or who holds himself/herself out to be a fortuneteller if said person does not hold a current, unrevoked license as required by this chapter.

No license shall be issued to any person who is not eighteen years of age or older. (Ord. 5296 § 1, 1985)

**Section 9.42.020 Exemptions.**

This chapter shall not apply to:

A. Any person solely by reason of the fact that he or she is engaged in the business of entertaining the public by demonstrations of mind reading, mental telepathy, thought conveyance, or the giving of horoscopic readings, at public places and in the presence of and within the hearing of other persons and at which no questions are answered, as part of such entertainment, except in a manner to permit all persons present at such public place to hear such answers, when not conducted in connection with the business of fortunetelling;

B. Any person who conducts or participates in any religious ceremony or service when such person holds a certificate of ordination as a minister, missionary, medium, healer or clairvoyant from any bona fide church or religious association maintaining a church and holding regular services, and having a creed or set of religious principles that is recognized by all churches of like faith; provided, further, that the fees, gratuities, emoluments and profits thereof shall be regularly accounted for and paid solely to or for the benefit of said church or religious association;

C. Nothing in this section shall be construed as exempting any person from the payment of any applicable business license fee which may be required to be paid by the licensing provisions of this Code. (Ord. 5296 § 1, 1985)

**Section 9.42.025 Establishment.**

Every person who engages in and is licensed for the practice of fortunetelling and occult arts shall maintain a fixed establishment for said practice, and shall maintain a current business license for said establishment as required by the licensing provisions of this code and shall conduct said practice only on the premises of the fixed establishment. (Ord. 5296 § 1, 1985)

**Section 9.42.030 Classification of use.**

The practice of fortunetelling/occult arts is a use similar to, compatible with and no more objectionable than those uses permitted in the RO - restricted office zone. (Ord. 5296 § 1, 1985)

**Section 9.42.035 License application and renewal: fees.**

An application for a license to practice fortunetelling and occult arts shall be made to a duly authorized representative of the Chief of Police under penalty of perjury on forms provided by the Chief of Police. The application to practice fortunetelling and occult arts shall be accompanied by an investigation filing fee of five hundred dollars, plus the fee charged by Department of Justice for fingerprint processing.

Said fees are not refundable in the event such application is denied.

Each license under this chapter shall expire on June 30th of the current year.

An unrevoked license may be renewed for one year on written application to the Chief of Police, made on or before May 15th of each year, accompanied by the required fees. Said application for renewal shall be made on a form provided by the Chief of Police.

The renewal application shall be accompanied by an investigation filing fee of two hundred fifty dollars. The first renewal fee for a license issued during the months of January, February or March shall be one-half the normal renewal fee. Licenses issued April, May or June of the current year shall expire June of the following year.

Licenses and fees required under this chapter shall be in addition to any license, permit or fee required under any other chapter of this code. (Ord. 5296 § 1, 1985)

#### **Section 9.42.045      Application contents.**

Any applicant for a license under this chapter shall submit the following information under penalty of perjury:

A. The full name and present residence and business address and telephone numbers of the applicant;

B. Any and all maiden, fictitious or other names ever used by the applicant;

C. Prior residence and business addresses used by the applicant during the five year period preceding the date of the application;

D. The birthdate and place of birth of the applicant;

E. The Social Security number and a California Driver's License or California Identification Card number or other satisfactory government-issued identification number of the applicant;

F. The applicant's height, weight, hair and eye color, and all distinguishing marks, scars or tattoos;

G. Business, occupation or employment history of the applicant for a period of five years preceding the date of application;

H. The name or names under which the applicant proposes to conduct said activity or practice and the business address of the premises where such practice is to be carried on in connection with a similar or other kind of business;

I. The name or names, both true or fictitious, and addresses of any and all persons, associations, partnerships or corporations holding an interest or involvement in said interest or involvement;

J. A statement of any and all criminal convictions, except minor traffic offenses not designated as a felony, including the nature thereof, where they occurred and the sentence therefor;

K. A list of fortunetelling or similar licenses currently or previously held by the applicant and whether any such license had been revoked or suspended and the reason therefor;

L. A list of at least three character references unrelated to the applicant by blood or marriage, and known to the applicant for at least five years. The list shall include true and fictitious names and current addresses and telephone numbers of said character references;

M. Such other identification and information as is necessary to discover the validity of the matters herein above specified as required to be set forth in the application. (Ord. 5461 § 2, 1986; Ord. 5296 § 1, 1985)

#### **Section 9.42.050      Required information and documents.**

Before the application is considered to be complete, the applicant must produce, provide and submit to the following:

A. A California Driver's License or California Identification Card, or other valid and satisfactory documentary evidence of the age and identity of the applicant.

1. To be "satisfactory", the documentary evidence of age and identity must be of official issue of some governmental agency, be currently valid and furnish a photograph, weight, height, color of eyes and hair, sex, age and/or date of birth and signature of the applicant. Birth certificates are not satisfactory identification as they do not include evidence of identity by description of the person named;

B. A photograph of the applicant, to be taken by an authorized employee of the Chief of Police at the time of application;

C. Fingerprints of the applicant, to be taken by an authorized employee of the Chief of Police at the time of application. (Ord. 5296 § 1, 1985)

#### **Section 9.42.055      Separate license for individuals.**

Each and every person engaged in or who proposes to engage in the practice of fortunetelling and occult arts shall file a separate and individual application as set forth in this chapter and shall pay separate and individual filing and renewal fees. This shall include persons who engage in said practice under one common establishment. (Ord. 5296 § 1, 1985)

#### **Section 9.42.060      Notification of change.**

Any person granted a license to practice fortunetelling and occult arts shall report immediately to the Chief of Police, or his authorized representative, any change of individuals, associations, partnerships or corporations having a financial interest in the fortunetelling establishment, or any transfer or interest in said establishment by such individuals, associations, partnerships or corporations.

Further, any person granted said license shall report immediately to the Chief of Police, or his authorized representative, any change of location or address of the fortunetelling establishment. Said change shall be approved by the Police Chief upon the determination that the provisions of this chapter have been fully met and upon the payment of a fifty dollar change of location fee. (Ord. 5296 § 1, 1985)

#### **Section 9.42.065      Investigation.**

The Chief of Police, or his authorized representative, shall conduct and complete an investigation of the moral character and reliability of the applicant and either grant or deny the license within a period of thirty days after the submission of the completed applications, except as provided by the following exceptions:

A. If good cause exists the Chief of Police may extend the period of investigation for a period of time not to exceed thirty days, provided that applicant is notified in writing that the investigation has not been completed;

B. If good cause exists the applicant may appear in person and submit a written request for a thirty day extension on a form provided by the Chief of Police. Said request must be submitted no later than five working days prior to the last day of the forty-five day period. Said request may or may not be granted by the Chief of Police. (Ord. 5296 § 1, 1985)

#### **Section 9.42.070      Refusal to issue license.**

The Chief of Police shall not issue or grant a license if any of the following occurs:

A. An applicant fails to or refuses to furnish the information and documents required by this chapter or who submits false or misleading information on said application;

B. The fortunetelling establishment does not comply with the City's building, fire, health or zoning regulations;

C. Upon receiving satisfactory evidence that the applicant has been convicted of, or has entered plea of guilty or nolo contendere to any violation of the provisions of this chapter or any

other law or ordinance relating to morals, theft, fraud or narcotics or other restricted drugs, unless the Chief of Police finds that the offense regulated occurred more than five years or more before the date of application.

Denial of a license shall be given to the applicant in writing and shall specify the grounds for such denial. Notice of the denial of the license shall be deemed to have been served upon personal service of the applicant or when deposited in the United States Mail with postage prepaid and addressed to the applicant at his or her last known address. (Ord. 5296 § 1, 1985)

#### **Section 9.42.075      Revocation.**

The Chief of Police shall revoke any license upon any grounds for which he may have refused the issuance thereof or upon conviction or upon a plea of guilty or nolo contendere for any violation of this chapter or the operation of the establishment does not comport with the peace, health, safety and general welfare of the public.

To revoke a license the Chief of Police, or his authorized representative, shall serve upon the holder thereof, a written notice either by personal service or by deposit in a United States Mail receptacle with appropriate postage affixed, to the address shown on the application or otherwise more recently of record, that said license shall be revoked effective upon personal service or five days after the date of mailing of said notice.

A revoked license shall be immediately surrendered to the Chief of Police or his authorized representative. (Ord. 5296 § 1, 1985)

#### **Section 9.42.080      Appeal.**

A Notice of Appeal must be deposited with the City Clerk within thirty days after denial of the application or revocation of the license has been served. Upon the filing of a Notice of Appeal, the revocation of a license shall remain in effect until such time as a decision has been rendered.

Upon the filing of the written Notice of Appeal, the City Clerk shall set the matter for hearing before the Public Safety Committee, which hearing shall be within thirty days after the date of said notice. The Public Safety Committee shall receive a copy of the denial or revocation notice and shall conduct a hearing to determine whether or not the license should be granted or reinstated. The scope of evidence presented to the Public Safety Committee shall be limited to evidence regarding the reasons for denial or revocation. The burden of proof shall be upon the appellant/applicant.

The decision of the Public Safety Committee shall be final with no right of further appeal to the City Council. (Ord. 5296 § 1, 1985)

#### **Section 9.42.085      Location of establishment.**

No person shall conduct, carry on or engage in the practice of fortunetelling and/or occult arts except in an area where the City's zoning laws, rules and regulations allow such activity. (Ord. 5296 § 1, 1985)

#### **Section 9.42.090      Hours permitted.**

It shall be unlawful to keep open to the public or to conduct the activity and practices defined in this chapter on any day of the week between the hours of twelve midnight and eight a.m. (Ord. 5296 § 1, 1985)

#### **Section 9.42.095      Inspection.**

The City's Police Chief, Fire Chief and Building Official and their authorized representatives, shall have the right to enter the fortunetelling establishment from time to time



during regular business hours for the purpose of making reasonable inspections to observe and enforce compliance with applicable building, fire or electrical regulations and the provisions of this chapter. (Ord. 5296 § 1, 1985)

**Section 9.42.100      Records.**

Every person, association, partnership or corporation operating a fortunetelling establishment under a license as herein provided shall keep accurate business records.

Said records shall be maintained and open for inspection for a period of three years and shall be kept on the premises of the fortunetelling establishment. Failure to keep and maintain said records as provided in this section shall be grounds for suspension or revocation. (Ord. 5296 § 1, 1985)

**Section 9.42.105      Display of license.**

The license issued to a fortuneteller shall be prominently displayed at the licensed premises. (Ord. 5296 § 1, 1985)

**Section 9.42.110      Compliance and penalty.**

No person shall commence, engage in, carry on or advertise that he or she will engage in or carry on any fortunetelling or occult arts activity as described in this chapter without first having procured a license as required by the licensing provisions of this chapter, or without complying with any and all regulations of such activity contained in this or any other ordinance of the City.

Failure to comply with the provisions contained in this chapter shall constitute a separate violation of this chapter for each and every day that such activity is so advertised, engaged in or carried on.

Revocation of a license shall not be a defense against prosecution. (Ord. 5296 § 1, 1985)

**Section 9.42.115      Severability.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the chapter. The City Council declares that it would have passed this chapter and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional. (Ord. 5296 § 1, 1985)

## Chapter 9.48

### DISCLOSURE OF HAZARDOUS MATERIALS

#### Sections:

<b>9.48.010</b>	<b>Definitions.</b>
<b>9.48.020</b>	<b>Designation of a hazardous material.</b>
<b>9.48.030</b>	<b>Filing of a hazardous material business plan.</b>
<b>9.48.040</b>	<b>Content of the business plan.</b>
<b>9.48.050</b>	<b>Disclosure information.</b>
<b>9.48.060</b>	<b>Content of the disclosure form.</b>
<b>9.48.070</b>	<b>Exemptions from disclosure.</b>
<b>9.48.080</b>	<b>Fees and penalties for late filing.</b>
<b>9.48.090</b>	<b>Trade secrets.</b>
<b>9.48.095</b>	<b>Hazardous material release report.</b>
<b>9.48.100</b>	<b>Remedies.</b>

#### **Section 9.48.010 Definitions.**

For the purpose of this chapter, the terms listed in this section shall be defined as follows:

"Carcinogen" refers to a substance or agency which causes cancer. For purposes of this ordinance carcinogens are those substances specified on the list developed by the United States Department of Health and Human Services to be known or anticipated.

"CAS number" means the unique identification name as assigned by the Chemical Abstracts Service to specific chemical substances.

"Chemical name" means the scientific designation of a substance in accordance with the International Union of Pure and Applied Chemistry or the system developed by the Chemical Abstracts Service.

"Common name" means any designation or identification such as code name, code number, trade name or brand name used to identify a substance other than by its chemical name.

"Disclosure form" means the written request for information prepared pursuant to Section 9.48.050.

"EPA Waste Stream Code" means the identification number assigned pursuant to the regulations of the U. S. Environmental Protection Agency to specific types of hazardous waste.

"Handle" means to generate, treat, store or dispose of a hazardous waste in any fashion.

"Hazardous material" means any hazardous substance or hazardous waste as defined in this section, or any material designated pursuant to Section 9.48.020.

"Hazardous substance" means any substance or product:

1. For which the manufacturer or producer is required to prepare a MSDS for the substance or produce pursuant to the Hazardous Substances Information and Training Act (commencing with Section 6360, Chapter 2.4, Part 1 of Division 5 of the California Labor Code) or pursuant to any applicable federal law or regulation; or,

2. Which is listed as a radioactive material set forth in Chapter 1, Title 10, Appendix B, maintained and updated by the Nuclear Regulatory Commission; or,

3. Which is listed in Parts 172 and 173 of Title 49 of the Code of Federal Regulations.

"Hazardous waste" means hazardous or extremely hazardous waste as defined by

Sections 25115 and 25117 of the California Health and Safety Code and set forth in Sections 66680 and 66685 of Title 22 of the California Administrative Code.

"MSDS" means a Material Safety Data Sheet prepared pursuant to Section 6390 of the California Labor Code or pursuant to the regulations of the Occupational Safety and Health Administration of the United States Department of Labor.

"Person" means an individual, trust, firm, joint stock company, corporation, partnership, association, City, County, district and the State, or any department or agency thereof.

"Physician" means any person who holds a valid certificate from the State of California to practice the healing arts.

"Radioactive material" means any amount of radioactive materials as listed in Chapter 1, Title 10, Appendix B, maintained and updated by the Nuclear Regulatory Commission.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment.

"SIC Code" means the identification number assigned by the Standard Industrial Classification Code to specific types of businesses.

"Use" includes the handling, processing or storage of a hazardous substance.

"User" means any person who uses a hazardous substance or handles a hazardous waste. (Ord. 5569 § 1, 1987; Ord. 5134 § 1, 1983)

#### **Section 9.48.020      Designation of a hazardous material.**

A material may be added to the list of hazardous materials as defined in Section 9.48.010 upon a finding by the Fire Chief that the material, because of its quantity, concentration or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the community. A material added to the list of hazardous materials pursuant to this Section shall be designated as either a hazardous substance or hazardous waste. (Ord. 5569 § 1, 1987; Ord. 5134 § 1, 1983)

#### **Section 9.48.030      Filing of a hazardous material business plan.**

A. Any person who uses or handles hazardous materials, except as provided in subsection B, which handles hazardous materials or mixtures containing hazardous materials, having a quantity during the reporting year equal to, or greater than, a total weight of five hundred pounds, or a total volume of fifty-five gallons, or a total volume of two hundred cubic feet at standard room temperature and pressure for compressed gas, or total weight of ten pounds for organic peroxides, or any known or suspected carcinogen, radioactive material, Class A poison, Class A or Class B explosive, shall, during the month of January, submit a completed inventory form to the Fire Department.

B. Any person who, during the calendar year, for the first time becomes a user or handler of hazardous material, must submit a completed business plan to the Fire Department within thirty days of becoming a user or handler. The form shall be accompanied by the appropriate prorated fee as established pursuant to Section 9.48.080. Thereafter, said person shall comply with the provisions of Subsection A of this section.

C. Each handler shall submit its business plan to the Fire Department and certify that it meets the requirements of this chapter. If, after review, the Fire Department determines that the handler's business plan is deficient in any way, the Fire Department shall notify the handler of these defects. The handler shall submit a corrected business plan within thirty days of the notice. If a handler fails after reasonable notice to submit a business plan in compliance with this chapter, the Fire Department shall immediately take appropriate action to enforce penalties specified in this chapter.

D. In addition, whenever a substantial change in the handler's operations occurs which requires a modification of its business plan, the handler shall submit a copy of the plan revisions

to the Fire Department within thirty days of the operational change. A substantial change shall include, but shall not be limited to the following:

1. A one hundred percent or more increase in the quantity of a previously-disclosed material.
  2. Any handling of a previously-undisclosed hazardous material subject to the inventory requirements of this chapter.
  3. Change of business address.
  4. Change of business ownership.
  5. Change of business name.
- E. The handler shall, in any case, review the business plan, submitted pursuant to Subsections A and B, on or before January 1, 1988, and at least once every two years thereafter, to determine if a revision is needed and shall certify to the Fire Department that the review was made and that any necessary changes were made to the plan. A copy of these changes shall be submitted to the Fire Department as a part of this certification. (Ord. 5569 § 1, 1987; Ord. 5134 § 1, 1983)

#### **Section 9.48.040      Content of the business plan.**

Business plans shall include all of the following:

- A. The inventory of information required by Section 9.48.050 and whatever additional information that the Fire Department finds is necessary to protect the health and safety of persons, property, or the environment. Any such information is, however, subject to trade secret protection pursuant to Section 9.48.090(B).
- B. Emergency response plans and procedures in the event of a reportable release or threatened release of a hazardous material, including, but not limited to, all of the following:
  1. Immediate notification to the appropriate local emergency rescue personnel.
  2. Procedures for the mitigation of a release or threatened release to minimize any potential harm or damage to persons, property or the environment.
  3. Evacuation plans and procedures, including immediate notice, for the business site.
  4. Training for all new employees and annual training, including refresher courses, for all employees in safety procedures in the event of a release or threatened release of a hazardous material, including, but not limited to, familiarity with the plans and procedures specified in subsections (B)(1)--(3). These training programs may take into consideration the position of each employee.
- C. Any business required to file a pipeline operations contingency plan in accordance with the California Pipeline Safety Act of 1981 (Chapter 5.5 (commencing with Section 51010) of Part 3 of Division 1 of Title 5 of the Government Code) and the regulations of the Department of Transportation, found in Part 195 of Title 49 of the Code of Federal Regulations, may file a copy of those plans with the Fire Department instead of filing an emergency response plan specified in subsection B of this section.
- D. Any business operating a farm exempted by Section 9.48.070(J) from filing the information specified in subsections (B)(1)--(3) shall, notwithstanding this exception, provide the training programs specified in subsection (B)(4) of this section. (Ord. 5569 § 1, 1987; Ord. 5134 § 1, 1983)

#### **Section 9.48.050      Disclosure information.**

- A. Upon receipt of a business plan, the Fire Department shall forward the fee payment to the City Revenue Division for processing.
- B. The Fire Department shall maintain files of all business plans received, indexed by street and company name. The business plan and revisions shall be available for public inspection during the regular business hours of the Fire Department, except that those portions

of the business plan specifying the precise location where hazardous materials are stored and handled onsite, including any maps of the site, and any information subject to the provisions of Section 9.48.090 relating to trade secrets, shall not be available for public inspection.

C. The Fire Department shall keep a record of all persons who request access to the hazardous materials disclosure forms. The record shall include:

1. The person's name, address and telephone number, as determined by the showing of appropriate identification;
2. Name and address of the person, business or governmental agency such person represents;
3. Identity of the specific file(s) examined or requested to be copied. (Ord. 5569 § 1, 1987; Ord. 5134 § 1, 1983)

#### **Section 9.48.060      Content of the disclosure form.**

A. The disclosure form shall be prepared by the Fire Department. The disclosure form shall include, but not be limited to, requests for the following:

1. A copy of the MSDS for every hazardous substance used by the person completing the disclosure form; provided, however, that no such copy need be provided for any hazardous substance for which the Fire Department has on file a copy of the MSDS.
2. A listing of the chemical name and common names of every hazardous substance or chemical product handled by the business.
3. The EPA Waste Stream Code of every hazardous waste handled by the person completing the disclosure form.
4. The maximum amount of each hazardous material disclosed in either subsection (A)(2) or (3) which is handled or used at any one time by the user over the course of the year.
5. Sufficient information on how and where the hazardous materials disclosed in subsections (A)(2) and (3) are handled or used by the user to allow fire and safety personnel to prepare adequate emergency response to potential releases of the hazardous material.
6. Sufficient information on any releases of the hazardous materials disclosed in subsections (A)(2) and (3) into the air, water, sewer or land to permit the City to understand the sources and content of hazardous material releases.
7. The SIC Code of the business, if applicable.
8. The name and telephone number of the person representing the business and able to assist emergency personnel in the event of an emergency involving the business during non-business hours.

B. Upon request all users must provide information in addition to that required in the disclosure form as follows:

1. To the Fire Department any information determined by the Fire Department to be necessary to protect the public health, safety or the environment; and
2. To any physician where the physician determines that such information is necessary to the medical treatment of his or her patient. (Ord. 5569 § 1, 1987; Ord. 5134 § 1, 1983)

#### **Section 9.48.070      Exemptions from disclosure.**

The following materials, persons or entities shall be exempt, as specified, from the disclosure requirements under this chapter:

- A. A material designated as a hazardous material by this chapter solely by its presence on the Nuclear Regulatory Commission list of radioactive materials shall be exempt from the requirement that a MSDS be submitted with the disclosure form.
- B. Hazardous substances contained in food, drug, cosmetic or tobacco products which are maintained by the business for resale purposes.
- C. Any person using or handling less than five hundred pounds, fifty-five gallons per

year, or two hundred cubic feet at standard temperature and pressure for compressed gas, whichever is the lesser, of a hazardous material shall be exempted from the requirement of disclosure of that use or handling unless the Fire Chief has provided notice that the weight or volume limits of this exemption for a specific hazardous material has been lowered in response to public health concerns.

The exemption of this subsection shall not apply to the using or handling of carcinogens except to the extent that such carcinogens are handled or used solely for personal purposes.

D. Hazardous material contained solely in a consumer product for direct distribution to, and use by, the general public is exempt from the business plan requirements of this chapter unless the Fire Department has found, and has provided notice to the business handling the product, that the handling of certain quantities of the product requires the submissions of a business plan, or any portion thereof, in response to public health, safety or environmental concerns.

E. Any person, while engaged in the transportation of hazardous materials, including storage directly incident thereto, provided that such materials are accompanied by shipping papers prepared in accordance with the provisions of Title 49, Code of Federal Regulations, Subchapter c.

F. No MSDS shall be required for any hazardous substance for which an MSDS is not available at the time disclosure is required; provided, however, that such MSDS shall be submitted to the Fire Department within fifteen days after receipt by the user of the MSDS.

G. The Fire Department may, in exceptional circumstances, following notice and public hearing, exempt from the inventory provisions of this chapter any hazardous substance listed in Parts 172 and 173 of Title 49 of the Code of Federal Regulations if the Fire Department finds that the hazardous substance would not pose a present or potential danger to the environment or to human health and safety if the hazardous substance was released into the environment. The Fire Department shall specify in writing the basis for granting any exemption under this subsection. The Fire Department shall send a notice to the office within five days of the effective date of any exemption granted pursuant to this subsection.

H. The Fire Department, upon application by a handler, may exempt a handler under the conditions it deems proper from any portion of the business plan upon a written finding that the exemption would not pose a significant present or potential hazard to human health or safety or to the environment or affect the ability of the Fire Department and emergency rescue personnel to effectively respond to the release of a hazardous material and that there are unusual circumstances justifying this exemption. The Fire Department shall specify in writing the basis for any exemption under this subsection.

I. The Fire Department upon application by a handler may exempt a hazardous material from the inventory provisions of this chapter upon proof that the material does not pose a significant present or potential hazard to human health and safety or to the environment if released into the workplace or environment. The Fire Department shall specify in writing the basis for any exemption under this subsection.

J. The Fire Department shall exempt a business operating a farm for purposes of cultivating the soil or raising or harvesting any agricultural or horticultural commodity from filing the information with the exception of the inventory in the business plan if all the following requirements are met:

1. The handler annually provides the inventory of information required by Section 9.48.060 to the County Agricultural Commissioner before January 1st of each year.

2. Each building in which hazardous materials subject to this chapter are stored is posted with signs, in accordance with regulations which the office shall adopt, which provide notice of the storage of any of the following:

- a. Pesticides.

- b. Petroleum fuels and oils.

c. Types of fertilizers.

3. Each County Agricultural Commissioner forwards the inventory to the Fire Department within thirty days after receiving the inventory.

K. The Fire Department shall adopt procedures to provide for public input when approving any applications submitted pursuant to Subsections H and I of this Section. (Ord. 5569 § 1, 1987; Ord. 5134 § 1, 1983)

#### **Section 9.48.080 Fees and penalties for late filing.**

A. Any person who willfully prevents, interferes with or attempts to impede the enforcement of this chapter by any authorized representative of the Fire Department or who willfully fails to fulfill the reporting requirements herein is, upon conviction, guilty of a misdemeanor.

B. The City Council shall by resolution establish a schedule of fees to be paid by persons using or handling hazardous materials which is sufficient to cover the costs to the City of administering this chapter. Said resolution shall include a schedule of penalties to be assessed for the late filing of any disclosure form. (Ord. 5569 § 1, 1987; Ord. 5134 § 1, 1983)

#### **Section 9.48.090 Trade secrets.**

A. If a user believes that a request for information made by either the disclosure form or otherwise pursuant to this chapter involves the release of a trade secret, the user shall so notify the Fire Department in writing. As used herein, trade secret shall have the meaning given to it by Section 6254.7 of the Government Code and Section 1060 of the Evidence Code.

B. Subject to the provisions of this section, the Fire Department shall protect from disclosure any trade secret coming into its possession when requested to do so in writing by the user.

C. Any information reported to or otherwise obtained by the Fire Department, or any of its representatives or employees, which is exempt from disclosure pursuant to subsection B shall not be disclosed to anyone except:

1. To an officer or employee of the City, the State of California, or the United States of America, in connection with the official duties of such officer or employee under any law for the protection of health or to contractors with the City and their employees if, in the opinion of the Fire Chief, such disclosure is necessary and required for the satisfactory performance of a contract for performance of work; or

2. To any physician where the physician determines that such information is necessary to the medical treatment of his or her patient.

D. For the purposes of this section, fire and emergency response personnel and County Health personnel operating within the jurisdiction of the City shall be considered employees of the City.

E. Any officer or employee of the City or former officer or employee, who by virtue of such employment or official position has obtained possession of or has access to information, the disclosure of which is prohibited by this section, and who, knowing that disclosure of the information is prohibited, knowingly and willfully discloses the information in any manner to any person not entitled to receive it, shall be guilty of a misdemeanor. Any contractor with the City and any employee of such contractor, who has been furnished information as authorized by this section, shall be considered to be an employee of the City for purposes of this section. Any physician who has been furnished information or who has obtained information pursuant to subsection (C)(2) of this section and who, knowing that the disclosure of the information is prohibited, knowingly and willfully discloses the information, shall be guilty of a misdemeanor.

F. Information certified by appropriate officials of the United States, as necessarily kept secret for national defense purposes, shall be accorded the full protections against disclosure

as specified by such officials or in accordance with the laws of the United States.

G. Upon receipt of a request for the release of information to the public which includes information which the user has notified the Fire Department is a trade secret pursuant to subsection A of this section, the Fire Department shall notify the user in writing of said request by certified mail. The Fire Department shall release the information thirty days after the day of mailing said notice unless, prior to the expiration of said thirty days, the user institutes an action in an appropriate court for a declaratory judgment that said information is subject to protection under subsection B of this section and/or an injunction prohibiting disclosure of said information to the general public.

H. The provisions of this Section shall not permit a user to refuse to disclose information required to be disclosed pursuant to this Chapter. (Ord. 5569 § 1, 1987; Ord. 5134 § 1, 1983)

#### **Section 9.48.095 Hazardous material release report.**

A. Except as provided in subsection (B), a handler shall, upon discovery, immediately report any release or threatened release of a hazardous material in the City of riverside to the Riverside Fire Department. Each handler shall provide all State, City or County fire or public health or safety personnel and emergency rescue personnel with access to the handler's facility.

B. Subsection A of this section does not apply to any person engaged in transportation of a hazardous material on a highway which is subject to and in compliance with the requirements of Sections 2453 and 23112.5 of the California Vehicle Code. (Ord. 5720 § 1, 1989)

#### **Section 9.48.100 Remedies.**

A. Every civil action brought under this chapter shall be brought by the City Attorney, District Attorney or Attorney General in the name of the people of the State of California, and any actions relating to the same violation may be joined or consolidated.

1. In any civil action brought pursuant to this chapter in which a temporary restraining order, preliminary injunction or permanent injunction is sought, it is not necessary to allege or prove at any stage of the proceeding any of the following:

a. Irreparable damage will occur should the temporary restraining order, preliminary injunction or permanent injunction not be issued.

b. The remedy at law is inadequate.

2. The court shall issue a temporary restraining order, preliminary injunction or permanent injunction in a civil action brought pursuant to this chapter without the allegations and without the proof specified in subdivision (1).

B. Any person who provides information which materially contributes to the imposition of a civil penalty, whether by settlement or court order, as determined by the City Attorney, District Attorney or the Attorney General filing the action, shall be paid a reward by the administering agency or the State equal to ten percent of the amount of the civil penalty collected. No reward paid pursuant to this subdivision shall exceed five thousand dollars.

C. Any person who provides information which materially contributes to the conviction of a person or business under this chapter as determined by the City Attorney, District Attorney or the Attorney General filing the action, shall be paid a reward by the administering agency or the State equal to ten percent of the amount of the fine collected. The reward shall be paid from the amount of the fine collected. No reward paid pursuant to this subdivision shall exceed five thousand dollars.

D. No informant shall be eligible for a reward for a violation known to the administering agency unless the information materially contributes to the imposition of criminal or civil penalties for a violation specified in this section.

E. If there is more than one informant for a single violation, the person making the first



notification received by the office which brought the action shall be eligible for the reward, except that if the notifications are postmarked on the same day or telephoned notifications are received on the same day, the reward shall be divided equally among those informants.

F. Public officers and employees of the United States, the State of California, or counties and cities in this State are not eligible for the reward pursuant to subsections B or C, unless the providing of the information does not relate in any manner to their responsibilities as public officers or employees.

G. An informant who is an employee of a business and who provides information that the business has violated this chapter is not eligible for a reward if the employee intentionally or negligently caused the violation or if the employee's primary and regular responsibilities included investigating the violation, unless the business knowingly caused the violation.

H. The administering agency or the State shall pay rewards under this section pursuant to the following procedures:

1. An application shall be signed by the informant and presented to the administering agency or the State within sixty days after a final judgment has been entered or the period for an appeal of a judgment has expired.

2. The determination by the District Attorney or City Attorney or Attorney General as to whether the information provided by the applicant materially contributed to the imposition of a judgment under this chapter shall be final.

3. The administering agency or the State shall notify the applicant in writing of its decision to grant or deny a reward within a reasonable time period following the filing of an application.

4. Approved reward claims shall be paid by the administering agency or the State within thirty days of the collection and deposit of the penalties specified in subsections B and C.

I. The names of reward applicants or informants shall not be disclosed by the administering agency or the State unless the names are otherwise publicly disclosed as part of a judicial proceeding.

J. Notwithstanding any other provision of this section, rewards paid by the State shall only be paid after appropriation by the Legislature. (Ord. 5569 § 1, 1987)

## **Chapter 9.52**

### **TRANSIENT MERCHANTS AND TEMPORARY BUSINESSES**

#### **Sections:**

- 9.52.010      Transient merchants and temporary businesses prohibited.**
- 9.52.020      Property owner responsible for transient merchants and temporary businesses.**
- 9.52.030      Evidence.**
- 9.52.040      Perishable items--Animals.**
- 9.52.050      Failure to appear or timely appeal administrative citation.**
- 9.52.060      Exceptions.**
- 9.52.070      Enforcement.**
- 9.52.080      Severability.**

#### **Section 9.52.010      Transient merchants and temporary businesses prohibited.**

No person shall sell merchandise, foodstuffs, fruits, vegetables, flowers, or similar items from a temporary stand, temporary location or vehicle upon any public street, public right-of-way, alley or other public place, doorway of any room or building, unenclosed building or vacant lot, or parcel of land, either paved or unpaved. This Section does not apply to businesses with registration certificates issued pursuant to another section or sections of this Code. (Ord. 6865 § 2, 2006; Ord. 6231 § 2 (part), 1995)

#### **Section 9.52.020      Property owner responsible for transient merchants and temporary businesses.**

No property owner shall authorize or allow the sale of merchandise, foodstuffs, fruits, vegetables, flowers, or similar items from a temporary stand, temporary location or vehicle upon any doorway of any room or building, unenclosed building, or vacant lot, or parcel of land, either paved or unpaved, unless a business registration certificate is allowed and granted pursuant to another section or sections of this Code. A property owner shall be conclusively presumed to have allowed a commercial activity occurring on his or her property. (Ord. 6865 § 3, 2006; Ord. 6231 § 2 (part), 1995)

#### **Section 9.52.030      Evidence.**

Any authorized officer may seize or confiscate the items offered for sale contrary to Sections 9.52.010 and 9.52.020, and hold the items as evidence in a criminal proceeding or as evidence under an administrative citation. (Ord. 6865 § 4, 2006; Ord. 6231 § 2 (part), 1995)

#### **Section 9.52.040      Perishable items--Animals.**

If the items seized under Sections 9.52.010 or 9.52.020 are perishable, and/or violate State or federal health and safety laws, they shall be inventoried, photographed, and destroyed. Any animals seized pursuant to this Chapter shall be impounded, and returned or disposed of pursuant to this Chapter and Chapter 8.14. (Ord. 6865 § 5, 2006; Ord. 6231 § 2 (part), 1995)

#### **Section 9.52.050      Failure to appear or timely appeal administrative citation.**

If the seller fails to appear at his/her criminal arraignment or fails to timely appeal an administrative citation, the items seized shall be deemed abandoned, and may be disposed of

pursuant to existing property disposal procedures as allowed for under California Civil Code Section 2080.6. (Ord. 6865 § 6, 2006; Ord. 6231 § 2 (part), 1995)

**Section 9.52.060      Exceptions.**

The provisions of this Section shall, in addition to the exceptions noted above, not apply to:

A. Vehicles or persons when they are engaged in the sole activity of making a pick-up or delivery of articles;

B. The vending of such items in conjunction with special activities or events for a limited time, and a limited location, subject to the authorization and regulation of temporary uses as set forth elsewhere in this Code;

C. The commercial or noncommercial sale or distribution of newspapers, books, handbills or other printed materials upon such public streets, sidewalks or parks in the City;

D. Any other activity that is otherwise permitted pursuant to Title 19 of this Code. (Ord. 6231 § 2 (part), 1995)

**Section 9.52.070      Enforcement.**

Violations of this Chapter are punishable as an infraction, or as a misdemeanor, at the discretion of the City Attorney.

As an alternative to criminal prosecution, the provisions of this Chapter may be enforced through the administrative code enforcement remedies set forth in Chapter 1.17 of this Code. (Ord. 6865 § 7, 2006; Ord. 6231 § 2 (part), 1995)

**Section 9.52.080      Severability.**

If any part or provision of this Chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the Chapter, including the application of that part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this chapter are severable. (Ord. 6231 § 2 (part), 1995)

## Chapter 9.54

### TARGETED RESIDENTIAL PICKETING PROHIBITED

#### Sections:

- 9.54.010** Legislative purpose.
- 9.54.020** Definitions.
- 9.54.030** Prohibition on targeted residential picketing.
- 9.54.040** Penalty.
- 9.54.050** Severability.

#### **Section 9.54.010 Legislative purpose.**

The purpose of this Chapter is to reasonably regulate the time, place and manner of picketing activity targeted at a particular residential dwelling. The regulations are content neutral and are intended to protect against the devastating affect of targeted picketing on the quiet enjoyment of the home. These regulations are not intended to and do not restrict the rights of free speech or alternative channels of communication. The ordinance leaves ample room for dissemination of ideas in a general way through marches, demonstrations, and placards employed in residential neighborhoods and other places, provided individuals are not targeted within 300 feet of their home. In developing this ordinance, the City Council has been mindful of legal principles relating to the regulations of targeted residential picketing. The City Council has considered decisions of the United States Supreme Court, including but not limited to: Frisby vs Schultz (1988) 487 U.S. 474, and Village of Belle Terre vs Boraas (1974) 416 U.S. 1, 9; several California cases, including but not limited to: City of San Jose vs Superior Court (1995) 32 Cal.App.4th 330; Sundance Saloon, Inc. vs City of San Diego (1989) 213 Cal.App.3d 807; and, Concerned Citizens of Murphys vs Jackson (1977) 72 Cal.App.3d 1021. The recent California Appellate Court decision in the City of San Jose vs Superior Court, referenced above, supports the language of this Chapter on its face and in its application as a content neutral time, place and manner restriction. Consistent with the City of San Jose decision, the City Council has reasonably chosen this 300 foot buffer zone to provide a minimum degree of protection to the residents of targeted homes. The minimum standard lot frontage for single family residences in the City is 60 feet pursuant to Municipal Code Section 19.10.050(5). Many lots have larger frontages. At most, therefore, the 300 foot buffer zone keeps pickets from within five homes on either side of the targeted residence. (Ord. 6337 § 1, 1996)

#### **Section 9.54.020 Definitions.**

For the purposes of this Chapter, the following meanings shall apply:

- A. The term, "residential dwelling" means any permanent building being used by its occupants solely for non-transient residential uses.
- B. The term "targeted" picketing means picketing activity that is targeted at a particular residential dwelling and proceeds on a definite course or route in front of or around that particular residential dwelling. (Ord. 6337 § 1, 1996)

#### **Section 9.54.030 Prohibition on targeted residential picketing.**

- A. No person shall engage in picketing activity that is targeted at and is within three hundred feet of a residential dwelling.
- B. This chapter does not and shall not be interpreted to preclude picketing in a residential area that is not targeted at a particular residential dwelling. (Ord. 6337 § 1, 1996)

**Section 9.54.040      Penalty.**

Any person violating the provisions of this Chapter shall be guilty of a misdemeanor, punishable as set forth in Riverside Municipal Code Section 1.01.110 thereof. (Ord. 6337 § 1, 1996)

**Section 9.54.050      Severability.**

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Riverside hereby declares it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portion may be declared invalid or unconstitutional. (Ord. 6337 § 1, 1996)

## **Chapter 9.55**

### **LIMITATION ON CONTINUOUS AND CUMULATIVE OCCUPANCY OF TRANSIENT HOTELS AND MOTELS**

#### **Sections:**

<b>9.55.010</b>	<b>Purpose.</b>
<b>9.55.020</b>	<b>Definitions.</b>
<b>9.55.030</b>	<b>Limitation on duration of occupancy.</b>
<b>9.55.040</b>	<b>Penalties.</b>
<b>9.55.050</b>	<b>Civil remedies.</b>
<b>9.55.060</b>	<b>Administrative remedies.</b>
<b>9.55.070</b>	<b>Remedies not exclusive.</b>
<b>9.55.080</b>	<b>Severability.</b>
<b>9.55.090</b>	<b>Hourly Rates Prohibited.</b>

#### **Section 9.55.010 Purpose.**

The purpose of this chapter is to ensure the continued use of transient hotels and motels in the manner intended pursuant to the Zoning Ordinance of the City of Riverside and to provide for enforcement of those provisions. (Ord. 6723 § 1, 2004)

#### **Section 9.55.020 Definitions.**

- A. "Person" means any individual; any unincorporated club, group or association; or any entity, including but not limited to, a firm, company, corporation, partnership, or trust.
- B. "Transient motel" means a lodging facility as defined in Title 19 of this code.
- C. "Transient hotel" means a lodging facility as defined in Title 19 of this code.
- D. "To rent" means to rent or let, or otherwise provide lodging accommodations at a transient hotel or motel whether or not for compensation. (Ord. 6723 § 1, 2004)

#### **Section 9.55.030 Limitation on duration of occupancy.**

A. LIMITATION. This section limits the continuous and cumulative occupancy of transient hotels and motels. It is unlawful for any transient hotel or transient motel to rent any room, in excess of 5 percent of the total number of its rooms, to any person for any period of time greater than that permitted under Section 19.04.185 or Section 19.04.380 of this code. In all circumstances in which the exception provision set forth in Section 9.55.030.B., below, is not applicable; it is the intent of this Section 9.55.030.A. that if a specific room is rented to any person for either of the maximum time periods allowed by Section 19.04.185 or Section 19.04.380, then that room shall not again be rented to that same person until such time as so doing does not constitute a violation of this Section 9.55.030.A.

1. Each transient hotel or motel shall maintain daily written records reflecting the renting of any of its rooms including, but not limited to, check-in and check-out dates of each person who rents a room. These records shall include the name and home or business address and telephone number of the person renting the room; unless payment for the room is made by check or credit card. These records shall also indicate which rooms have been rented for long-term stays as permitted under the 5 percent allowance provisions of Section 19.04.185 or 19.04.380 of this code. The required records shall be maintained for no less than one year, or for such longer period as may be prescribed by law, and shall be available for review by any City representative during normal business hours.

2. Except as otherwise provided by law, each transient hotel and motel shall post a legible copy of the text of Chapter 9.55 in an open and conspicuous place within the public lobby area, and in an open and conspicuous place where other postings are required by law, in each room available for rent.

3. Any property left in a room by a person or party who has checked out shall be removed by the operator of the transient hotel or motel and stored or otherwise disposed in accordance with applicable laws.

B. EXCEPTION. Any transient hotel or motel seeking to lawfully exceed the occupancy time limits set forth in Sections 19.04.185 or 19.04.380 shall first apply for a conditional use permit to operate as a "long term stay hotel/motel," as that term is defined in Section 19.04.184 of this code; and shall comply with all of the development standards set forth in Section 19.30.020 TTT of this Code. (Ord. 6723 § 1, 2004)

#### **Section 9.55.040 Penalties.**

It is unlawful for any person to violate Section 9.55.030 of this chapter. Any person who violates Section 9.55.030 may be charged with a misdemeanor and upon conviction thereof shall be punished by a fine of up to One Thousand Dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment. Each such person may be charged with a separate offense for each and every day, or any portion thereof, during which any violation of Section 9.55.030 is committed, continued, or permitted by such person; and shall be deemed punishable therefore as provided in this chapter. (Ord. 6723 § 1, 2004)

#### **Section 9.55.050 Civil remedies.**

Notwithstanding Section 9.55.040, above, any violation of Section 9.55.030 shall constitute a nuisance and may be abated by the City through civil process by means of a restraining order, preliminary or permanent injunction or in any other manner provided by law for the abatement of nuisances. (Ord. 6723 § 1, 2004)

#### **Section 9.55.060 Administrative remedies.**

Notwithstanding Sections 9.55.040 and 9.55.050, above, the provisions of this chapter may be enforced by administrative code enforcement remedies as set forth in Chapter 1.17 of this code. (Ord. 6723 § 1, 2004)

#### **Section 9.55.070 Remedies not exclusive.**

The remedies available under this chapter shall be in addition to criminal, civil or other legal or equitable remedies now or hereafter established by law which may be pursued to address violations of this code. The use of the remedy provisions of this chapter shall be at the sole discretion of the City Attorney or his or her designated agent. (Ord. 6723 § 1, 2004)

#### **Section 9.55.080 Severability.**

The City Council declares that, if any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions sections, paragraphs, sentences, and words of this Ordinance shall remain in full force and effect. (Ord. 6723 § 1, 2004)

#### **Section 9.55.090 Hourly Rates Prohibited.**

A. No person owning, controlling, managing, or having charge of any transient hotel or motel within the city shall allow or permit an hourly charge for any room within said

establishment.

B. No person owning, controlling, managing, or having charge of any transient hotel or motel within the city shall allow or permit any room or rooms within said establishment to be rented more than twice in any 24-hour period commencing at 12:01 a.m. (Ord. 6827 § 2, 2005)



## **Chapter 9.58**

### **LOST, STOLEN, OR ABANDONED SHOPPING CARTS**

#### **Sections:**

<b>9.58.010</b>	<b>Findings And Purpose.</b>
<b>9.58.020</b>	<b>Definitions.</b>
<b>9.58.030</b>	<b>Enforcement of Chapter.</b>
<b>9.58.040</b>	<b>Required Signs On Carts.</b>
<b>9.58.050</b>	<b>Prohibiting Removal Or Possession Of Abandoned Cart.</b>
<b>9.58.060</b>	<b>Mandatory Plan To Prevent Cart Removal/Evaluation Report.</b>
<b>9.58.070</b>	<b>Prevention Plan/Evaluation Report Timelines And Approval Process.</b>
<b>9.58.080</b>	<b>Penalties For Failing To Submit A Prevention Plan or Evaluation Report Or To Implement Prevention Measures.</b>
<b>9.58.090</b>	<b>Notification For Retrieval Of Abandoned Carts.</b>
<b>9.58.100</b>	<b>Administrative Costs And Fines.</b>
<b>9.58.110</b>	<b>Disposition Of Carts After Thirty Days.</b>
<b>9.58.120</b>	<b>Exemption.</b>
<b>9.58.130</b>	<b>Businesses Without Carts.</b>
<b>9.58.140</b>	<b>Severability And Validity.</b>

#### **Section 9.58.010 Findings And Purpose.**

Abandoned shopping carts constitute a nuisance, create potential hazards to the health and safety of the public, and interfere with pedestrian and vehicular traffic within the City of Riverside. The accumulation of wrecked, dismantled and abandoned shopping carts on public or private property also tends to create conditions that reduce property values, promoting blight and deterioration in the City. The intent of this Chapter is to insure that measures are taken by store owners to prevent the removal of shopping carts from store premises and parking lots, to make the removal of shopping carts a violation of this Code, and to facilitate the retrieval of abandoned carts as permitted by State law. Further, this Chapter is intended to supplement existing State law regarding shopping carts as set forth in California Business & Professions Code, section 22435, et seq. (Ord. 6820 § 1, 2005; Ord. 6502 § 1, 1999)

#### **Section 9.58.020 Definitions.**

a. Cart. Cart shall mean a basket which is mounted on wheels or a similar device provided by a business establishment for use by a customer for the purpose of transporting goods of any kind, including, but not limited to grocery store shopping carts. This definition shall exclude from enforcement under this Chapter those devices which do not have a "basket" mounted on wheels in which goods can be placed for transport.

b. Owner. Owner shall mean any person or entity, who in connection with the conduct of a business, owns, leases, possesses, uses, or otherwise makes any cart available to customers or the public. For purposes of this chapter, owner shall also include the Owner's on-site or designated Agent that provides the carts for use by its customers.

c. Premises. Premises shall mean the entire area owned and utilized by the business establishment that provides carts for use by customers, including any parking lot or other property provided by the owner for customer parking.

d. Abandoned cart. Any cart that has been removed without written permission of the Owner or on-duty manager from the premises of the business establishment, regardless of whether it has been left on either private or public property. Written permission shall be valid for

a period not to exceed 72 hours. This provision shall not apply to carts that are removed for purposes of repair or maintenance.

e. Enforcement personnel. This means any police officer, code compliance officer, or other designated City of Riverside employee designated by the Public Works Department. (Ord. 6820 § 1, 2005; Ord. 6502 § 1, 1999)

#### **Section 9.58.030      Enforcement of Chapter.**

The provisions of this Chapter shall be enforced by any enforcement personnel. To the extent otherwise permitted by law, said enforcement personnel may enter onto any public or private property in the City to retrieve, remove, store, and dispose of any lost, stolen, or abandoned shopping cart, or any part thereof. Any act authorized to be performed by the City of Riverside pursuant to any provision of this Chapter may be performed by any enforcement personnel. (Ord. 6820 § 1, 2005; Ord. 6502 § 1, 1999)

#### **Section 9.58.040      Required Signs On Carts.**

a. Every cart owned or provided by any business establishment in the City of Riverside must have a sign permanently affixed to it that contains the following information:

- 1.) Identifies the owner of the cart or the name of the business establishment, or both;
- 2.) Notifies the public of the procedure to be utilized for authorized removal of the cart from the business premises;
- 3.) Notifies the public that the unauthorized removal of the cart from the premises or parking area of the business establishment is a violation of State and City of Riverside law;
- 4.) Lists a telephone number to contact to report the location of the abandoned cart; and
- 5.) Lists an address for returning the cart to the owner or business establishment.

b. Failure to comply may subject the violator to any civil, criminal, or administrative remedies as provided by law. (Ord. 6820 § 1, 2005; Ord. 6502 § 1, 1999)

#### **Section 9.58.050      Prohibiting Removal Or Possession Of Abandoned Cart.**

a. It shall be unlawful to either temporarily or permanently remove a cart from the premises or parking area of a business establishment without the express prior written approval of the owner or on-duty manager of the business establishment. Written permission shall be valid for a period not to exceed 72 hours.

b. It shall be unlawful to be in possession of a cart that has been removed from the premises or parking area of a business establishment unless it is in the process of being immediately returned to the owner or business establishment.

c. This section shall not apply to carts that are removed for the purposes of repair or maintenance.

d. Failure to comply may subject the violator of the cart to any civil, criminal, or administrative remedies as provided by law. (Ord. 6820 § 1, 2005; Ord. 6502 § 1, 1999)

#### **Section 9.58.060      Mandatory Plan To Prevent Cart Removal/Evaluation Report.**

Every Owner shall develop and implement a specific plan to prevent customers from removing carts from the business premises ("prevention plan"). The prevention plan must include the following elements:

a. Notice to Customers. Written notification shall be provided to customers that removal of carts from the premises and parking lots are prohibited and a violation of state and local law. This notice may be provided in the form of flyers, warnings on shopping bags, or any other form of written notification that will effectively notify customers of the prohibition.

b. Signs. Signs shall be placed in pertinent places near door exits and near parking lot exits that warn customers that cart removal is prohibited and constitute a violation of state and local law.

c. Physical Measures. Specific physical measures shall be implemented to prevent cart removal from the business premises. These measures may include, but are not limited to, disabling devices on all carts, posting of a security guard to deter and stop customers who attempt to remove carts from the business premises, bolards and chains around business premises to prevent cart removal, security deposits required for use of all carts, or the rental or sale of carts that can be temporarily or permanently used for transport of purchases.

d. Evaluation Report. If a prevention plan was in place the previous year, a report shall be submitted to the City evaluating the measures that were used and approved in the prior calendar year. The report shall include, but not be limited to, the inventory of carts owned/used by the business establishment and the number of carts that had to be replaced due to loss, theft or abandonment. (Ord. 6820 § 1, 2005; Ord. 6502 § 1, 1999)

#### **Section 9.58.070 Prevention Plan/Evaluation Report Timelines And Approval Process.**

The proposed prevention plan for preventing cart removal shall be submitted for approval to the City within 60 days after adoption of this ordinance and an evaluation report shall be submitted by January 1 of each year thereafter. If a new plan is submitted, the proposed measures shall be implemented by no later than thirty (30) days after City approval is given. If the proposed plan is the same as the previous year, the prevention measures shall be continued until and unless the City indicates that a measure(s) needs to be modified. Unless otherwise agreed, any modifications to the plan imposed by the City shall be implemented within thirty days after the City notifies the Owner of the needed modifications. (Ord. 6820 § 1, 2005; Ord. 6502 § 1, 1999)

#### **Section 9.58.080 Penalties For Failing To Submit A Prevention Plan or Evaluation Report Or To Implement Prevention Measures.**

Any Owner that fails to submit a prevention plan, implement the proposed plan measures, or implement any required modifications to the plan by the City within the time frames specified in this Chapter shall be required to place disabling devices on all carts owned/leased/used by the business to prevent removal of carts from the business premises and parking lots. Any Owner that fails to submit an evaluation report as outlined in Section 9.58.060(d) by January 1 of each year or fails to place a disabling device on all carts, if applicable, shall be subject to a \$1,000.00 civil penalty, plus an additional penalty of \$50.00 for each day of non-compliance. (Ord. 6820 § 1, 2005; Ord. 6205 § 1, 1999)

#### **Section 9.58.090 Notification For Retrieval Of Abandoned Carts.**

Pursuant to Business and Professions Code Section 22435.7, the City shall notify the Owner of any abandoned carts owned or used by the business establishment that have been located within the City of Riverside, if the City intends to impound the cart(s) pursuant to Section 22435.7. The Owner shall have three (3) days from the date the notification is given, to retrieve the carts from the City. (Ord. 6820 § 1, 2005)

#### **Section 9.58.100 Administrative Costs and Fines.**

Pursuant to Business and Professions Code Section 22435.7, any Owner that fails to

retrieve its abandoned cart(s) after receiving the three-day notice by the City, shall pay the City's administrative costs for retrieving the cart(s) and providing the notification to the Owner. Any Owner who fails to retrieve abandoned carts in accordance with this Chapter in excess of three times during a specified six-month period, shall be subject to a \$50.00 fine for each occurrence. An occurrence includes all carts owned by the Owner that are impounded by the City in a one-day period. (Ord. 6820 § 1, 2005)

**Section 9.58.110      Disposition of Carts After Thirty Days.**

According to State Law, any cart not reclaimed from the City within thirty (30) days after notification to the Owner shall be sold or otherwise disposed of by the City. Any cart that fails to have the identification required by State Law or this Chapter may be sold or otherwise immediately disposed of at the discretion of the City. (Ord. 6820 § 1, 2005)

**Section 9.58.120      Exemption.**

Any Owner that has a contract with the City to provide for retrieval of abandoned carts, shall be exempt from the Sections 9.58.060 through 9.58.080 of this Chapter. This exemption is valid only if the other provisions of this Chapter are complied with by Owner. (Ord. 6820 § 1, 2005)

**Section 9.58.130      Businesses Without Carts.**

A business which does not own, rent, lease, or otherwise possess its own carts, but which receives a benefit by the use of carts owned by other businesses, merchants, grocers, or other similar establishments, shall provide a location upon its premises for the storage of carts and shall immediately contact the City's cart retrieval service to retrieve any carts that are left on the premises. This section specifically applies to recycling centers. (Ord. 6820 § 1, 2005)

**Section 9.58.140      Severability And Validity.**

If any section, subsection paragraph or sentence of this ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Riverside by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance. (Ord. 6820 § 1, 2005)